

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY ANQUILLANO, ALIAS DAGOL, ACCUSED-APPELLANT.

G.R. No. 72318. April 30, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

The accused-appellant is before us to challenge his conviction of the complex crime of murder with serious physical injuries, for which he has been sentenced to death and to pay civil indemnity in the amount of P30,000.00.[1] His claim is that he was not there when the victims were shot and so could not have committed the offense.

His conviction was based mainly on the testimony of Miguel Burton, who was himself wounded when he and Manuel Sequerra were ambushed on a lonely stretch of road in sitio So-ot in the town of La Paz in Abra, at about 12:30 in the afternoon of November 10, 1983.[2]

According to Burton, he was driving his motorcycle with Sequerra seated behind him on their way home to Bangued when the incident happened. A shot suddenly rang out and Sequerra shouted, "I'm hit!" He himself felt a pain in his back as he and Sequerra fell sideways to the left with the motorcycle. He immediately stood up and saw Anquillano standing by the side of the road looking at him. Fearful for his life, Burton set the motorcycle aright and hurriedly rode off. He met Jaime Sequerra, one of his helpers, and told him of the shooting, and then he proceeded to the PC Command in Camp Juan Villamor to report the matter. From there he went to the Seares Family Clinic to have his own wound treated.[3]

Meanwhile, Jaime Sequerra and later the police went to the scene of the crime and found the lifeless body of Manuel Sequerra.[4] The subsequent autopsy was to reveal that he had sustained eleven gunshot wounds.[5] The accused-appellant, for his part, disappeared on that very night and was to reappear only several months later after his arrest.[6]

Resisting Burton's testimony, the accused-appellant testified that at the time of the incident, he was harvesting rice with some people in Ticub, in barangay Naguilian, La Paz.[7] He was corroborated by one witness, Belma Talingdan, who also declared that her husband was a distant cousin by affinity of the accused-appellant.[8] Asked about the distance between Ticum and So-ot, where the crime was committed, Anquillano said it was about two hundred meters.[9] As for his disappearance after the shooting, his explanation was that he had gone away for fear of being suspected and arrested for it.[10]

The evidence and the law clearly support conviction. We find no justification to disturb the factual and legal findings of the trial court.

Burton's testimony deserves credence as there was no reason at all for him to perjure himself, especially at the cost of another man's liberty and possibly even his life. Burton had no grudge against the accused-appellant; in fact, in a way, he should be grateful that he was also not killed by Anquillano. He knew Anquillano and could not

have mistaken him for another when he saw him in the glare of the noonday sun looking at him after the shooting. The distance was near enough — ten meters, no less — to sustain this certain identification of the defendant.[11]

There is also the flaw in the defense of alibi, which, on top of its inherent weakness, is especially ineffective in this case because of the proximity of Anquillano's alleged whereabouts at the time to the scene of the crime. Anquillano could have negotiated the distance of only two hundred meters in minutes, committed the crime in So-ot, and then returned to Ticum without much inconvenience.[12]

The motive, as testified to by Burton, is traceable to an earlier incident when the deceased, an ex-convict, ran after the accused-appellant, who apparently fled in fright in the presence of many people.[13] Anquillano was humiliated, being also notorious as a "tough guy," and sought revenge. This testimony is believable enough, but in any case it is not even necessary because of the clear identification of the accused-appellant.[14]

It is said that "the wicked flee when no man pursueth but the righteous are as bold as a lion." Anquillano's flight is a strong indication of his guilt because there was no cogent reason he could give for his sudden disappearance following the shooting of Sequerra and Burton. He just fled, obviously hounded by his own guilt.

Although the original charge was for murder and frustrated murder, the trial court reduced the offense against Burton to less serious physical injuries only.[15] The reduction is proper.

We are not unmindful of the case of *People vs. Guillen*,[16] where the accused, intending to assassinate President Manuel A. Roxas, hurled toward him a grenade that killed or injured a number of people whom he did not intend to kill. The culprit was nonetheless found guilty of murder and frustrated murder. In a way, this case is similar to that because Anquillano fired his shotgun toward Sequerra and Burton, intending to kill the former but also wounding the latter with the single blast.

It has been shown, however, that, having shot and killed Sequerra, Anquillano just stood by and watched Burton stand up and ride off in his motorcycle. The accused-appellant made no move at all. If it is considered that Burton's death would have silenced the only witness to the shooting of Sequerra, Anquillano's inaction when he could also have shot the defenseless Burton, is, in the view of the Court, proof of his lack of intent to kill the latter.

Burton's gunshot wound, which was in the lower part of the back, took more than ten days to heal. The shooting of Sequerra was attended by treachery and evident premeditation and so constituted murder. As the wounding of Burton was caused also by the same shotgun blast that killed Sequerra, the offense committed is the complex crime of murder with less serious physical injuries, punishable under Article 48 of the Revised Penal Code with the maximum penalty for the more serious offense, which is death. However, in view of the provisions of Article III, Section 19, of the 1987 Constitution, this penalty must now be reduced to life imprisonment. The civil indemnity of P30,000.00 is affirmed but an additional amount of P5,000.00 is adjudged against the accused-appellant for the funeral expenses of Manuel Sequerra as proved at the trial.[17]

When he had a chance to fight, the accused-appellant ran. By his twisted sense of values, he thought to avenge his honor by shooting his adversary in the back.

WHEREFORE, the judgment of the lower court as modified is hereby **AFFIRMED**, with costs against the accused-appellant. It is so ordered.

Teehankee, C.J., Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

Yap, J., on leave.

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- [1] Rollo, pp. 17-18; Decision, pp. 7-8.
- [2] Rollo, pp. 11-12; TSN, pp. 3-4, July 29, 1985.
- [3] Rollo, p. 12; TSN, pp. 4-7, July 29, 1985.
- [4] Rollo, p. 12.
- [5] Exh. "C".
- [6] Rollo, p. 16.
- [7] Rollo, p. 14; TSN, p. 37, Aug. 9, 1985.
- [8] Rollo, p. 14; TSN, p. 34, Aug. 9, 1985.
- [9] Rollo, p. 14.
- [10] Rollo, pp. 16-17; TSN, p. 41, Aug. 9, 1985.
- [11] Rollo, p. 15; TSN, p. 4, July 29, 1985.
- [12] Rollo, p. 17.
- [13] Rollo, p. 12; TSN, p. 20, July 29, 1985.
- [14] People vs. Beltran, 137 SCRA 508; People vs. Cabanit, 139 SCRA 94; People vs. Yurong, 133 SCRA 26; People vs. Tiengo, 133 SCRA 290; People vs. Oga-oga, 133 SCRA 530; People vs. Abucay, 133 SCRA 732.
- [15] Rollo, p. 17; Decision, p. 7.
- [16] 85 Phil. 307.
- [17] Rollo, p. 14; Decision, p. 4.

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