

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
AURELIO ESPINOSA @ “ROLLY” AND JESUS FLORO Y
JUNDOY, ACCUSED. JESUS FLORO Y JUNDOY, ACCUSED-APPELLANT.**

G.R. No. 72883, December 20, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

Ariel Mamucod got a black eye and his father wanted to know why. But he never did find out. On his way to the barangay chairman, he was accosted by two persons, who hit him in the head and stabbed him in the chest and back. The following day, Jaime Mamucod was dead.

The incident happened on May 6, 1981 but an information for murder was filed only on July 19, 1983.[1] Accused were Aurelio Espinosa and Jesus Floro. Espinosa was never tried and remains at large. Only Floro is appealing the decision of the trial court sentencing him to reclusion perpetua and payment of P30,000.00 civil indemnity to the victim's heirs.[2]

The chief witnesses for the prosecution were the victim's two sons, Arnold and Ariel. Both of them were with their father when the jeep he was driving was blocked by the killers at Almeda Street, in Santa Cruz, Manila, at about 9 o'clock in the evening. The brothers identified the culprits as Espinosa and Floro. It was Floro who first attacked Jaime, hitting him in the head with a hard object about a foot long and wrapped in a newspaper. When the victim fell off the jeep as a result of the blow, Espinosa stabbed him repeatedly in the back with a fan knife. Floro, using an ice pick, stabbed Jaime several times in the chest. Jaime ran for his life but his attackers pursued and continued stabbing him until the latter fell into a ditch. The two assailants then walked away fast. Ariel boarded his dying father on a tricycle and brought him to the Jose Reyes Memorial Hospital, where he expired from his wounds the next day.[3]

The testimonies of the brothers were corroborated by Manuel Buenaventura, who said he saw the stabbing while he was on a tricycle waiting to cross Abad Santos Street. He also identified Jaime's killers as the two accused.[4] The necropsy report submitted by Dr. Luis Larion, medico-legal officer of the Western Police District, (which was admitted by the defense without his testimony) declared that Jaime Mamucod died as a result of "profuse hemorrhage and shock due to multiple stab wounds penetrating the chest and piercing the right lung and branches of the right pulmonary artery and vein." [5] Another witness for the prosecution, Sgt. Juanito Yang of the Western Police District, testified that it was he who investigated the killing and took the statements of the victim's two sons implicating Espinosa and Floro.[6]

The defense invoked alibi. Testifying for himself, Floro admitted that he was at the basketball court earlier in the evening of May 6, 1981, as he was coaching one of the competing teams. But he left later because the games had been called off and at the time of the stabbing he was in his house on Almeda Street. On cross examination, he declared that his house was only about two hundred meters or two or three minutes walk from the scene of the crime.[7]

A prosecution witness, Lilia Silva, was also asked to testify for the defense because she said she saw Espinosa chasing and stabbing Jaime when the latter stumbled but made no mention of Floro. When asked by defense counsel if she saw Floro stabbing the victim, she said she did not.[8]

The appellant's brief faulted the trial court for accepting the testimonies of the Mamucod brothers despite their inconsistencies and contradictions. The defense stressed that whereas Arnold said Floro hit Jaime in the nape of the neck, Ariel said it was on the top of the head, and that while Arnold said Jaime was stabbed while lying on the ground, Ariel said it was while his father was standing. It was also unbelievable that after the stabbing Ariel should say, "Tatay, let us go home," when the natural thing to do was to rush the dying man to the nearest hospital for immediate treatment.

Noting that the necropsy report spoke only of stab wounds and not punctured wounds, the defense also stressed that this proved the brothers were lying when they swore that their father had been stabbed by Floro with an ice pick.

The Court has examined the evidence of the parties and sees no reason for overturning the findings of Judge Rosalio A. de Leon, who had the opportunity to observe the witnesses on the stand and assess their credibility by the various indicia available to the trial court but not reflected in the record. The demeanor of the person on the stand can draw the line between fact and fancy. The forthright answer or the hesitant pause, the quivering voice or the angry tone, the flustered look or the sincere gaze, the modest blush or the guilty blanch - these can reveal if the witness is telling the truth or lying in his teeth. Absent then a showing that the conclusions of the trial court are arbitrary or without basis, they must be regarded with respect and accepted as conclusive on appeal.

The discrepancies in the declarations of Arnold and Ariel are not unnatural or evidence of perjury. When their father was attacked, Arnold was seated at the front of the jeep beside Jaime and Ariel was sitting behind them.[9] The two brothers had therefore different vantage points that gave each of them a separate view of the incident. Moreover, it should also be considered that the man being stabbed before their very eyes was their father. Under this traumatizing and shocking circumstance, the two sons, who were then only sixteen and fifteen respectively, can hardly be expected to remember the grisly stabbing in perfect detail.

As for Lilia Silva, her testimony is less than conclusive of Floro's innocence. The mere fact that she did not see Floro at the scene of the crime does not prove he was not there as she obviously was narrating only the latter part of the incident. Besides, she added that there were many people around, which could be the reason she did not notice Floro. At any rate, her testimony cannot cancel the sworn declarations of Arnold and Ariel that they actually saw Espinosa and Floro killing Jaime Mamucod.

The two sons could hardly have made a mistake regarding this matter. Indeed, the memory of these men is not easily blurred and must have been indelibly imprinted in their young and impressionable minds. They had no motive for falsely identifying Espinosa and the accused-appellant. The only reason for naming them is the logical one: that Espinosa and Floro were the men who killed their father.

The contention that the necropsy report did not mention any punctured wounds must be rejected. The phrase "stab wounds" is used generically to include all wounds that may be caused "by weapons such as knives, scissors, three-cornered files, or ice picks with a circular shaft, all possessing a sharp point but having blades of different shapes".[10] Stabbing may be done with an ice pick and the puncture is correctly called a stab wound.

The appellant's brief did not dispute the finding of the trial judge that Floro was in hiding for more than two years,[11] which may explain why the information against him could not be filed in 1981, when Jaime Mamucod was killed. It would also suggest that the accused-appellant is not innocent as he claims, for as we have repeatedly

observed, unexplained flight is an indication of guilt.[12] "The guilty flee when no man pursueth but the innocent are as bold as a lion."

Finally, there is the question of conspiracy. Floro would distance himself from Espinosa and impute the whole blame to his absent co-accused for the killing of Jaime Mamucod. The evidence shows, however, that they acted in concert in pursuit of a common design. Floro and Espinosa together blocked Jaime's jeep and told him not to disturb the basketball game (although there was none in progress). Floro first hit Jaime with the foot-long stick or pipe earlier concealed in a newspaper. Then Espinosa drew his fan-knife and stabbed Jaime in the back. Then Floro drew his ice pick and stabbed Jaime in the chest. When Jaime ran away from them, they pursued him and continued stabbing him. Finally, with their victim dying in the ditch, both assailants fled together and disappeared. It is clear from their acts that the two had come to an agreement concerning the attack on Jaime and decided to commit it. There was thus a conspiracy that made each conspirator liable for the other's acts.

We agree that the killing of Jaime Mamucod was attended with treachery, qualifying the crime to murder. The victim was totally defenseless. He was caught by surprise when Espinosa and Floro, whom he considered his friends, suddenly attacked him. Without warning, he was hit in the head, then stabbed in the back. Thus disabled, he was stabbed in the chest. And even as he ran for his life, he was pursued and stabbed some more when he stumbled. He never had a chance to save his life.

What prompted the vicious attack must remain a mystery to this Court. Proof of motive is, of course, not necessary for the conviction of the accused-appellant in view of his positive identification as one of the killers. Even so, one may well wonder why a human life was taken for no apparent reason and another life must now be needlessly spent in the shadow of the prison bars.

WHEREFORE, the appealed judgment is AFFIRMED in toto, with costs against the accused-appellant.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 4.

[2] Penned by Judge Rosalio de Leon of the Regional Trial Court, Manila.

[3] TSN, January 6, 1984, pp. 11-12; Ibid, p. 14; Ibid, p. 14; Ibid, p. 15; Ibid, p. 16; TSN, February 15, 1984, p. 8; Ibid, pp. 5-7; Ibid, p. 9; Ibid, pp. 10-12; Ibid, p. 14; Ibid, pp. 16-17.

[4] TSN, April 16, 1985, pp. 3-6.

[5] TSN, March 19, 1985, p. 11.

[6] Ibid, pp. 3-4.

[7] TSN, June 14, 1985, pp. 3-4; Ibid, p. 7.

[8] TSN, February 26, 1985, pp. 2 and 4.

[9] TSN, February 15, 1984, p. 9.

[10] Gonzales, Vance, Helpen & Umberger, Legal Medicine, second edition, p. 335.

[11] Decision, Rollo, p. 48.

[12] People vs. Dejucos, 156 SCRA 469; People vs. Hecto, 135 SCRA 113; People vs. Millarpe, 134 SCRA 555.

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