

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS CAMAHALAN ALIAS ESOY, A CERTAIN BONGI, A CERTAIN ASTOR AND A CERTAIN POTOT, ACCUSED, JESUS CAMAHALAN ALIAS ESOY, ACCUSED...

G.R. No. 73535. December 18, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

For the killing of Juanito de Castro on February 22, 1982, the accused-appellant Jesus Camahalan was charged with the crime of murder in the Circuit Criminal Court at Cebu City. The information read as follows:

That on or about the 22nd day of February, 1982, at about midnight, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, armed with a sharp bladed instrument, conniving and confederating together and mutually helping with one another, with deliberate intent, with intent to kill Juanito de Castro, taking advantage of their superior strength, with treachery and evident premeditation, did then and there attack, assault and use personal violence upon the person of one Juanito de Castro by stabbing him on different parts of his body thus inflicting upon him the following injuries:

HEMORRHAGE, MASSIVE SECONDARY TO MULTIPLE STAB WOUNDS, BODY AND (R) UPPER (EXTREMITY).

and as a consequence of said injuries Juanito de Castro died the following (d)ay.

Contrary to law with the qualifying circumstance of treachery and evident premeditation and with the (attendance) of aggravating circumstance of the accused taking advantage of their superior strength.

After trial on the merits, judgment was rendered on August 23, 1982, the dispositive portion of which read:

WHEREFORE, the Court finds the accused Jesus Camahalan, alias Esoy, guilty beyond reasonable doubt of the crime of MURDER described in the aforequoted information. There being neither mitigating nor aggravating circumstances adduced and proven, the Court sentences the accused to the penalty of RECLUSION PERPETUA, with the accessory penalties of the law, to indemnify the heirs of the deceased Juanito de Castro in the sum of P12,000.00 without subsidiary imprisonment in case of insolvency; and to pay proportionate costs.

SO ORDERED.

In this appeal, it is submitted that the trial court erred in believing the testimony of the lone prosecution witness although it was riddled with inconsistencies, improbabilities and absurdities, and in holding that the evidence of the prosecution had overturned the constitutional presumption of innocence in favor of the accused-appellants.

As found by the trial court, the Karate Club of the Vortex Libra Gym, situated at 1405 M.J. Cuenco Avenue, Mabolo, Cebu City, held a conference on February 22, 1982, between 10:00 and 12:00 in the evening. After the

conference, Juanito de Castro, a karate instructor, and Marcelo Estorco, a club member proceeded to the roadside, where they waited for a public vehicle to take them home. When a passenger jeep arrived, De Castro and Estorco boarded it, together with Camahalan, who seated himself in front of De Castro. Three companions of Camahalan, namely, Bongi, Artor and Potot, climbed up the side of the vehicle and held on to it as they stood on the running board.

When the jeepney was about 35 meters away from the gymnasium, Potot suddenly pulled out a knife and stabbed Estorco. The driver of the jeep immediately stopped the vehicle and Estorco fell to the ground.

As De Castro rose from his seat to help Estorco, Camahalan unexpectedly and without warning stabbed him on the chest. De Castro was still able to alight from the jeep, but Camahalan and his three companions rushed toward him, with Bongi stabbing him once or twice and Artor stabbing him twice. After the attack, the four fled.

Estorco and De Castro were brought to the Velez General Hospital. Estorco survived but De Castro died.

Dr. Jesus P. Cerna, police medico-legal officer, conducted the autopsy on De Castro and declared the cause of death as "hemorrhage, massive, secondary to multiple stab wounds, body and right upper extremity." [1]

Camahalan was the only one arrested for the killing of De Castro. His three companions remained at large.

In his defense, Camahalan denied the charge against him. He claimed that in the evening of February 22, 1982, he was working as a watchman at the parking area of the Reflection Disco on M.J. Cuenco Avenue and that because his house was only fifty meters away, he did not have to take any public transportation to go to work. He just walked. [2] His alibi was corroborated by Antonio Flores, a barangay policeman, who testified that at midnight of February 22, 1982, he passed by the Reflection Disco and talked to Camahalan. [3]

This case hinges on the credibility of the witnesses. In the view of the Court, the trial judge was correct in believing the testimony of the eyewitness for the prosecution rather than on the story concocted by the accused-appellant and his witness.

Marcelo Estorco, who was with De Castro during that fatal incident, positively identified the accused-appellant as one of the three persons who stabbed and killed De Castro. [4] He testified in a simple, straightforward manner, mentioning details of the incident that could not have been merely fabricated. Estorco explained how he was stabbed by one of the accused-appellant's companions, how he fell from the jeep after having been stabbed, and how he actually saw Camahalan stab De Castro on the chest. [5] Even during his cross-examination, Estorco stood fast on his testimony and the defense failed to trip him on any of the salient points of his narration of the incident in question. [6]

The assessment by the trial court of the credibility of the prosecution witness is entitled to much respect. It has not been shown that Estorco had any improper motive in testifying falsely against the accused-appellant, which would be against human nature and the presumption of good faith. [7] Significantly, the accused-appellant himself admitted that he knew of no motive that Estorco might have in imputing the crime to him. [8]

The alibi of the accused-appellant that he was not present when the deceased was killed cannot prevail over his positive identification by the eyewitness for the prosecution. The testimony of Antonio Flores that he saw Camahalan working at the Reflection Disco in the night of February 22, 1982, is insufficient. It was not enough to prove that the accused-appellant was somewhere else when the crime was committed. It was also necessary to show that it was physically impossible for him to have been at the scene of the crime at the time of its commission in view of his claimed presence at the Reflection Disco which, significantly, was on the same street where the stabbings occurred. In the absence of such proof, the positive identification of the accused-appellant as one of the

assailants should prevail over his denial.

The Court also agrees that the accused-appellant conspired with his companions in the killing of De Castro. It is clear that he acted in concert with the others in stabbing the victim to death. It is enough that at the time the offense was committed, the participants had the same purpose and were united in its execution, as could be inferred from the attendant circumstances.[9] In a conspiracy, the co-conspirator is not held responsible only for his own individual act, for the act of one is the act of all.[10]

While every person accused of a crime is entitled to the constitutional presumption of innocence, that presumption may be overcome with proof of his guilt beyond reasonable doubt. That proof has been satisfactorily established in this case.

The trial court correctly convicted the accused-appellant of murder qualified by treachery. Without any warning, he and his companions attacked the deceased in the absence of any provocation or aggression on the part of the latter. So sudden and unexpected was the attack that the deceased had no chance to defend himself against the four men who fell upon him.

The penalty of murder as provided for by Article 248 of the Revised Penal Code is reclusion temporal in its maximum period to death. However, since the death penalty has been proscribed under the 1987 Constitution, the trial court correctly imposed upon the appellant the penalty of reclusion perpetua. The civil indemnity ordered by the trial court to be paid by the appellant to the legal heirs of the deceased in the amount of P12,000.00 is hereby increased to P50,000.00, conformably with the present policy of this Court.

ACCORDINGLY, the judgment appealed from is AFFIRMED, except as to the civil indemnity to be paid to the legal heirs of the deceased which is increased to P50,000.00.

SO ORDERED.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Exhibit "A" - Necropsy Report; TSN, May 10, 1982, p. 4.

[2] TSN, August 2, 1982, pp. 13-17.

[3] TSN, August 23, 1982, p. 3.

[4] TSN, June 28, 1982, p. 4.

[5] Ibid., pp. 4-6.

[6] Id., pp. 10-23.

[7] *People v. Lacao, Sr.*, 201 SCRA 317 (1991).

[8] TSN, July 15, 1982, p. 16.

[9] *People v. Bolima*, 195 SCRA 614 (1991).

[10] *People v. Arroyo*, 201 SCRA 616 (1991).

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