

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CRESTITO HERMOSA AND TITO HERMOSA, DEFENDANTS-APPELLANTS.

G.R. No. 74060. September 15, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Crestito Hermosa and Tito Hermosa appeal from the judgment of the Regional Trial Court of Masbate, Branch 49 (Cataingan) finding them guilty of murder, sentencing them to reclusion perpetua and ordering them to indemnify the heirs of Remegio Villanueva in the amount of P30,000.[1]

The evidence for the prosecution discloses that at one o'clock in the early morning of April 20, 1984, Pacencio Enor, a 59 year-old faith healer, was conducting a "ritual session" in the yard of Isabelo Hermosa's house in Barangay Aguada, Cataingan, Masbate. The ritual consisted of killing chickens and offering spiritual prayers for the vines, roots and leaves which Pacencio had gathered earlier. Also present in the yard were the two accused, brothers Crestito Hermosa and Tito Hermosa, together with their uncle, Isabelo Hermosa, who is the older brother of their father.

The victim, Remegio Villanueva, 28 years old, farmer and fisherman of Matayum, Cataingan, Masbate, entered the Hermosa yard, bringing with him some fish as offering. Suddenly, the accused Tito Hermosa embraced Remegio from behind and then placed his two arms around the neck of Remegio, forcing the latter to lean backwards. While Remegio was thus being held, the other accused, Crestito Hermosa, rushed in front of Remegio and stabbed him at the abdomen with a double bladed knife. Remegio died instantly. The duo then fled together, bringing along with them the weapon they had used to kill their victim.

Immediately after the assault, Isabelo Hermosa, Pacencio Enor, and one Francasio Sevilla, went to the barangay captain to report the incident.

The autopsy performed on the victim's cadaver showed that Remegio sustained "(s)tab wound 2 inches, penetrating the thorasic and abdominal cavity lacerating the liver and diaphragm (sic); incised wound muscular deep 1/2 inch (L) lower mandible." [2] Cause of death was shock due to severe hemorrhage.

Two eyewitnesses, namely Isabelo Hermosa and Pacencio Enor, gave their sworn statements to the police authorities and later to the municipal judge of Cataingan.[3] In his order dated July 23, 1984, said judge forwarded the case to the Masbate Regional Trial Court for further proceedings.[4]

For the fatal stabbing of Remegio Villanueva on April 20, 1984, accused-appellants Crestito Hermosa and Tito Hermosa were charged with the crime of murder in an information filed with the trial court dated November 15, 1984. Said information alleged:

"That on or about April 20, 1984 in the morning thereof, in the yard of the house of Isabelo Hermosa, situated in Barangay Aguada, Municipality of Cataingan, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, confederating and conspiring together mutually and

helping one another, with evident premeditation, treachery, superior strength and nocturnity, did then and there stab one REMEGIO VILLANUEVA with a sharp bladed weapon thereby hitting and inflicting on the body of the victim, Remegio Villanueva, injuries which caused the instantaneous death of said victim."[5]

Upon arraignment on February 7, 1985, both accused, assisted by their counsel de parte, entered a plea of not guilty.[6] The lower court, however, after trial found them guilty as charged and accordingly rendered the judgment of conviction on December 14, 1985.

Erroneously transmitted to the Court of Appeals, the instant appeal was subsequently forwarded to this Court for resolution.

Accused-appellants assail the lower court for giving weight and credence to the prosecution witnesses' supposed conflicting and contradicting testimonies and for convicting them when their guilt has not allegedly been proven beyond reasonable doubt.[7]

The case for the prosecution was established by the eyewitness accounts of Isabelo Hermosa and Pacencio Enor who were present at the crime scene on that fateful morning of April 20, 1984.

Isabelo Hermosa, 71 years old, a widower and farmer, recounted that at one o'clock in the morning of April 20, 1984, he was inside the yard of his house helping Pacencio Enor with the preparations for the ritual session.[8] The two accused were also there to attend said ritual. Then Isabelo saw the victim Remegio enter the yard, bringing fish. A struggle swiftly ensued as his nephew, accused Tito Hermosa "entangled" Remegio on the neck, after which his other nephew, accused Crestito Hermosa, stabbed the victim on the stomach.[9] At the trial, Isabelo demonstrated how Tito Hermosa "entangled" Remegio: "INTERPRETER: At this juncture, the witness is holding the neck of the supposed Remegio Villanueva and the witness was at the back and place (sic) his two (2) arms around the neck of the supposed Remegio Villanueva making Remegio Villanueva incline backward." [10] Isabelo further testified that the stabbing was not preceded by any altercation or conversation among the three men.[11]

The other eyewitness, Pacencio Enor, corroborated the testimony of Isabelo Hermosa. He said that he was holding the ritual session when he saw the victim Remegio being embraced by Tito Hermosa and then suddenly stabbed by Crestito Hermosa.[12] Enor likewise testified that there was no argument between Remegio and the two malefactors before the assault. There were no words of command coming from Tito Hermosa for his brother Crestito to stab Remegio.[13] Enor knew the accused brothers because they had been neighbors for over two years.

The trial court was correct in giving credence to the above testimonies of the prosecution witnesses. To discredit the veracity of Isabelo Hermosa's statements, appellants make capital of the variance between Isabelo's testimony and that of the examining physician as to the number of wounds suffered by the victim. As well-explained by the Solicitor General, such variance is understandable. Dr. Almanzor declared that the deceased sustained two wounds because he actually examined and scrutinized the victim's cadaver. On the other hand, Isabelo did not examine the body but merely based his testimony on what he witnessed, i.e., Crestito Hermosa stab Remegio on the stomach. Indeed, in this case, the number of stab wounds assumes secondary importance to the fact of stabbing itself.

Neither was there an inconsistency in the testimony of Pacencio Enor, the faith healer. While it is true that Enor was then performing the ritual when the stabbing occurred, he could not avoid seeing the scenario as it unfolded only "about two (2) arms' length" away from where he stood.[14]

In their defense, the accused-appellants interposed self-defense and alibi.

Crestito Hermosa, 20 years old, farmer, single, claimed that at the time of the supposed murder, he was drinking

with the victim Remegio in the house of his uncle, Isabelo Hermosa. Tito Hermosa was not there with him. Then, for no apparent reason at all, Remegio boxed him on the breast. To prevent Remegio from hitting him again, Crestito embraced him. It was then that he felt the Batangas knife tucked at the left side of Remegio's waistline. Remegio grabbed the knife and the two grappled for its possession. In the course thereof, Remegio was stabbed on the breast. After the incident, Crestito went to his house which is half a kilometer away.[15]

The other accused, Tito Hermosa, 24 years old, married, claimed alibi. He averred that at the time of the stabbing, he was in his house in Barangay Aguada, Cataingan, attending to his wife who was then having labor pains. His mother assisted in the delivery. From ten in the evening until two in the morning of April 20, 1984 when his wife finally gave birth to a girl, he did not leave the house.[16]

We hold that the guilt of the two accused-appellants Crestito Hermosa and Tito Hermosa has been established beyond reasonable doubt. The credibility of the twin testimonies of witnesses Isabelo Hermosa and Pacencio Enor is strengthened by the fact that they are corroborative of each other. And as admitted by the appellants themselves, Isabelo and Pacencio had no ulterior motive to falsely testify against them.

The alibi of Tito Hermosa cannot prevail over the positive identification made by eyewitnesses Isabelo Hermosa and Pacencio Enor. It is patently weak because it was corroborated only by the testimony of Tito's wife who would naturally be expected to make statements that could exculpate her husband from criminal liability. For alibi to be acceptable, it must count with a strong corroboration.[17] Furthermore, there was no showing that it was physically impossible for said accused to be at the scene of the crime at the time of its commission considering that his house and that of Isabelo Hermosa are located in the same Barangay Aguada.

Crestito Hermosa's claim that he stabbed Remegio in self-defense deserves no serious consideration. The lower court correctly disregarded it because it was too flimsy to be relied upon and because it lacked corroboration.

The crime is murder due to the presence of treachery. The sudden and unexpected stabbing of Remegio while being held by Tito Hermosa insured the killing without any risk to the attackers.

Conspiracy may be implied from the concerted action of the assailants in confronting their victim. No words were exchanged between them and yet they acted in unison in accomplishing the criminal act.

WHEREFORE, the judgment appealed from is AFFIRMED in toto. Costs against the accused-appellants.

So ordered.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

Feliciano, J., on leave.

[1] Original Records, p. 77.

[2] Exhibit A, Original Records, p. 5.

[3] Original Records, pp. 3-4; 7-8.

[4] Original Records p. 16.

[5] Original Records, p. 1.

[6] Original Records, p. 28.

[7] Rollo, p. 30.

- [8] TSN, July 15, 1985, p. 6.
- [9] Ibid, pp. 2-3.
- [10] Ibid, p. 3.
- [11] Ibid, pp. 3, 9.
- [12] Ibid, p. 10.
- [13] Ibid, p. 15.
- [14] Ibid, p. 6.
- [15] TSN, September 15, 1985, pp. 18-20.
- [16] TSN, October 7, 1985, pp. 28-30.
- [17] People vs. Bermoy, G.R. No. L-48502-03, June 17, 1981, 105 SCRA 106.

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