

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE POSTRERO, ACCUSED-APPELLANT.*G.R. No. 74061. November 03, 1987*

Ponente: MELENCIO-HERRERA, J.

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The accused-appellant, Jose Postrero, appeals from the judgment of the Regional Trial Court of Masbate, Masbate,* convicting him of Murder and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim in the amount of P30,000.00, and to pay the costs.

The People's Brief summarizes the evidence for the prosecution as follows:

At around 5:00 o'clock in the afternoon of March 9, 1983, Francisco Gonzales, Jr., and Francisco Tanola, both farmers, left their farms situated adjacent each other in sitio Patag, Barangay Marcella, Uson, Masbate (pp. 3-5, 6, tsn, Jan. 23, 1984; p. 5, tsn, March 6, 1984). On their way home to barangay Marcella, they saw at a distance of about twenty (20) meters from them and about 150 meters away from their farms, appellant Postrero place his left arm on the shoulder of Marcos Montemor and without ado stab the latter with a knife (macheta) in the abdomen (pp. 3-5, tsn, Jan. 23, 1984; p. 3, tsn, March 6, 1984). As a result thereof, Montemor fell face downward (pp. 4, 8, tsn, March 6, 1984). As soon as appellant Postrero had run away towards the direction of the mountain, the two approached the victim Montemor who immediately informed them that his assailant was Jose Postrero and the motive was jealousy (pp. 4, 8, tsn, March 6, 1984; p. 4, tsn, Jan. 23, 1984). Thereafter, they brought Montemor to Barangay Marcella about 15 meters from the place of the incident (p. 7, tsn, March 6, 1984). From there, the victim was brought by Catalino Patutoy, stepfather of the victim, to the Provincial Hospital of Masbate, where the victim died on arrival (p. 4, tsn, January 23, 1984; pp. 2-4, tsn, April 16, 1984).[1]

The post-mortem examination on the body of the victim, Marcos Montemor, attributed the victim's death to "shock secondary to hemorrhage secondary to stab wounds in the epigastric region and lumbar region, posterior".[2]

Appellant denies having had anything to do with the killing nor even knowing the victim. Not only does he claim that he was at home in Barrio Centro, six (6) kms. away from Bo. Marcella, the scene of the crime, in the afternoon of the incident, but more so that he could not have perpetrated the crime because he suffers from an eye defect. To capsulize his defenses:

"x x x On March 9, 1983, at about 5:30 in the afternoon he was at their house in Centro, Uson, Masbate, which was more than six (6) kilometers away from Bragy. Marcella, Uson, Masbate; that in 1969, he suffered an eye defect which blurred his vision, because of which, he could only effectively move around when aided by his son Rustico; that his wife had separated from him in 1968 and his companion at said house is his son named Rustico; that on March 28, he was summoned by the barangay captain and was informed that he was a suspect in the stabbing of one Marcos Montemor; that he denied any participation in the alleged incident; that he does not even know this person nor the witnesses who testified against him x x x."[3]

The Trial Court gave no credence to the defense version and, as heretofore stated, rendered a verdict of guilty.

In this appeal, appellant faults the Trial Court:

1. "in convicting the accused-appellant of the crime charged by relying heavily on the incredible and inconsistent testimonies of the alleged eyewitnesses to the crime and in totally disregarding the evidence;
2. "in convicting the accused-appellant of the crime charged notwithstanding the insufficiency of the evidence of the prosecution; and
3. "in convicting the accused-appellant of the crime of murder despite the fact that his guilt was not duly proven by proof beyond reasonable doubt."[4]

It is to be conceded that prosecution witnesses Francisco GONZALES and Francisco TANOLA categorically stated that they saw appellant place his left arm on the shoulder of the victim and then stab the latter in the abdomen with a knife (machete). TANOLA declared that thereafter, appellant ran "very fast". Both witnesses maintain that they could not have been mistaken as to the identity of appellant because it was still daylight at 5 in the afternoon besides the fact that they were acquainted with appellant. GONZALES had known appellant for about ten (10) years, while TANOLA knew him for one year prior to the incident during which time said witness used to see appellant frequently in Barrio Marcella at nighttime. TANOLA further testified that he was told by the victim that the motive for the killing was jealousy. GONZALES, for his part, declared that he did not know the reason for the stabbing.

Notwithstanding the identification by prosecution witnesses, however, the eye defect that appellant suffers from engenders doubt as to his culpability. That such defect exists is admitted. The question is the nature and the degree of that physical handicap vis-a-vis appellant's capability to commit the crime charged.

Prosecution witness GONZALES would have us believe that it was during daytime that appellant's vision was defective but that during nighttime he could see clearly alleging that he used to see appellant always walking at night.

In evaluating appellant's defective vision, the Trial Court "believe(d) that the accused could still see despite the eye defect to be able to move around. This the Court could observe from the accused whenever in Court for his trial of this case".[5]

As against the foregoing declarations and observation, the prison guard, Honesto Almine, who had the opportunity to observe appellant daily during his incarceration from March, 1983 to July, 1985 when he testified, declared that appellant had blurred eyesight; that at a distance of two (2) meters he could not see anymore; that there were times when appellant's cellmates would joke him but they noticed that he could not identify persons around him; that he moved very slowly because of his defective vision specially during nighttime, and that although he could move by himself inside the cell, he would always have to be escorted on the way to and from the capitol where the courthouse was situated.

Defense witness Manuel Merdegia, a farmer, declared that he had known the accused for two (2) years already as they were neighbors in Barrio Centro, their houses being only twenty (20) meters distant; that appellant's eye defect blurs his vision during the day and particularly at night; that he encounters difficulty in walking because of that eye defect; and that if appellant goes at all to Barrio Marcella, it is only when accompanied by his son.

The son, Rustico Postrero, a 15-year-old Grade IV pupil, who lives with appellant in the same house confirmed that his father, although not completely blind, suffers from blurred vision because of which he usually accompanies his father in going from place to place.

In the absence of reliable expert opinion, the Court finds it difficult to determine the actual condition of appellant's vision and to ascertain his guilt with judicial certainty. GONZALES' testimony is that appellant can see better at night than during the day. Diametrically opposite is the testimonial evidence for the defense that appellant's vision is defective both during the day and particularly at night. And while, perhaps, appellant could, indeed, move around within the limited confines of the Courtroom as the Trial Court had observed, no reliable determination was made as to the freedom with which he could really maneuver about as to be able, despite defective vision, to stab a person, chase him as he was running away and stab him again, and then flee "very fast" as prosecution witness had narrated.

Another significant point. The prosecution attributes the motive for the killing to appellant's jealousy of the victim whom appellant suspected of courting his (appellant's) wife. According to witness Francisco TANOLA, he was so told by the victim when he went to the latter's succor after the stabbing. Catalino Patutoy, the victim's step-father, also testified that appellant had confided to him his feelings of animosity against the victim so much so that he had warned his stepson to avoid appellant. He further stated that appellant and his wife "Sina" had already separated two weeks prior to the incident. Witness GONZALES also declared that appellant is married; that his wife lives with him and that they are not separated; that he does not know the name of the wife but that he would recognize her face.

However, as Rustico, appellant's son declared, his mother is Adoracion Bacud (not "Sina") but that he does not have a mother anymore and that since childhood he had not seen nor known her. Appellant's neighbor, Manuel Merdegia, also declared that since knowing appellant, he had not seen the wife living with him nor visiting him. Appellant himself averred that his wife went away in 1968 and that he had not gotten married since.

As between the testimonies of prosecution witnesses GONZALES and Catalino Patutoy, the stepfather, who were residing six (6) kilometers away from appellant, and the testimonies of a son and a neighbor, the Court inclines to the latter testimonies as the more reliable by reason of relationship and proximity of abode.

We thus find that the foregoing considerations, taken together, cast a pall of doubt on appellant's authorship of the crime and the alleged motive for its commission. It is axiomatic that the prosecution must rely on the strength of its own evidence and should not rely on the weakness of that of the defense.[6] In this case, that degree of proof necessary to convince the Court with moral certainty of appellant's culpability is direly wanting. And while appellate Courts normally accord the highest respect to findings of credibility made by Trial Courts, we find that the lower Court herein had misappreciated a circumstance of weight and substance - appellant's admitted eye defect - as to alter the result of this case. Oddly enough, the Solicitor General, in recommending affirmance of the guilty verdict, was sepulchraly silent on this physical handicap of appellant.

WHEREFORE, accused-appellant, Jose Postrero, is hereby acquitted on reasonable doubt and is ordered released from further custody unless held on other charges. Costs de officio.

SO ORDERED.

Yap, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

* Presided by Judge Ludovico C. Lopez.

[1] Appellee's Brief, pp. 1-3.

[2] Exhibit "A".

[3] T.s.n., July 25, 1985, pp. 5-10.

[4] Appellant's Brief, p. 1.

[5] Decision, p. 7.

[6] *People vs. Bihasa*, L-63450, June 25, 1984, 130 SCRA 62; *People vs. Tabayoyong*, L-31084, May 29, 1981, 104 SCRA 724.

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