

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO SERRANO, ACCUSED-APPELLANT.

G.R. No. 74657. February 27, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Lucena City, Branch 53 finding the accused Leonardo Serrano guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased the amount of Twenty Thousand Pesos (P20, 000.00) and to pay actual damages in the amount of P6, 667.40, and moral damages in the amount of P10,000.00 without subsidiary imprisonment in case of insolvency.

The information filed against the accused alleged:

That on or about the 23rd day of January 1983, at Barangay Masin Sur, Municipality of Candelaria, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who was then riding in a tricycle, armed with a sharp and pointed weapon, with intent to kill and with treachery and with evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said deadly weapon and Jorge Villapando, a fellow passenger in said tricycle, thereby inflicting upon the latter the following injuries, to wit:

- "1. Stab wnd. 1 1/2 cm. long, 2 cm. to the left of the midline 2nd I.C.S. non-penetrating.
2. Stab wnd. 1 1/2 cm. long at 4th I.C.S. 3 cm. from the midline penetrating the chest cavity. Injuring the heart.
3. Stab wnd. 1 1/2 cm. long, 1/2 cm. below wnd. No. 2 non-penetrating.
4. Stab wnd. 1 1/2 cm. long 5th I.C.S., 2 cm. from the midline penetrating the chest cavity hitting the heart.
5. Stab wnd. 1 1/2 cm. long at 3rd I.C.S., 7 cm. from the midline non-penetrating."

which directly caused his death. (Original Record, pp. 38 - 39).

The lower court summarized its findings of fact as follows:

On the night of January 23, 1983 Leonardo Serrano and Jorge Villapando were visitors of one Charito Valencia in the house of latter's uncle Lamberto Espeleta in Barangay Masin Sur, Candelaria, Quezon. Jorge Villapando is already the sweetheart of Charito Valencia while Leonardo Serrano is a suitor and faithful admirer of Charito. A conversation took place between the three of them and it was in this conversation that Leonardo Serrano discovered that Jorge Villapando has won the heart and the mind of Charito Valencia. Jorge Villapando decided to leave the house early and so he intimated to leave but the accused Leonardo Serrano also decided to leave together with Jorge Villapando. Apparently Leonardo Serrano in a fit of jealousy decided to get even with Jorge Villapando. As the place between the house of Espeleta and that of the national highway would be a convenient

place for him to accomplish his evil design, but this was frustrated when Charito's uncle Leonardo (sic) Espeleta feeling apprehensive that their two visitors might be molested on their way decided to accompany them to the railroad where they could get a tricycle in going home. Serrano and Villapando were able to ride or board the tricycle of Armando Alvarez on the national highway near the railroad track at Barangay Masim, Candelaria, Quezon and while on board this tricycle in going to the poblacion of Candelaria, Quezon as Jorge Villapando was seated on his left side and taking advantage of the unsuspecting Jorge Villapando the accused stabbed Villapando five times on the chest and as the two were struggling inside the tricycle the driver Armando Alvarez noticed that his tricycle swayed and when he peeped inside he saw Serrano still stabbing Villapando and when he slowed down it was at that time that accused Leonardo Serrano jumped out of the tricycle and ran towards the place where they came from. Immediately thereafter Villapando was brought to the Candelaria Hospital where he was pronounced dead on arrival. The identity of the accused was established not only by the testimony of Lamberto Espeleta but also by the testimony of Armando Alvarez the tricycle driver.

From the testimony of Dr. Juan Cedeño who conducted the post-mortem examination on the wounds of the victim, it shows that all the wounds were inflicted on the left chest caused by only one pointed instrument and the thrust of the weapon came from the front of the victim. (Original Record, pp. 190 - 191).

In this appeal, the accused Serrano raised the following assignment of errors:

I. THE HONORABLE TRIAL JUDGE MISERABLY FAILED TO APPRECIATE THE FACTUAL AND LEGAL SIGNIFICANCE OF THE THREE-HOUR PERIOD (MORE OR LESS) THAT LAPSED FROM THE TIME THE VICTIM LEFT THE HOUSE OF LAMBERTO ESPELETA (WHERE CHARITO VALENCIA IS LIVING) UP TO THE TIME THE VICTIM WAS FOUND BY THE TRICYCLE DRIVER ARMANDO ALVAREZ AT THE CROSSING OF BARANGAY MASIN, CANDELARIA, QUEZON, CONSEQUENTLY, THE HON. TRIAL JUDGE ERRONEOUSLY ARRIVED AT THE CONCLUSION THAT VICTIM WAS STABBED INSIDE THE TRICYCLE INSTEAD OF MAKING THE LOGICAL FINDING THAT THE VICTIM WAS ALREADY WOUNDED BEFORE BOARDING THE AFORESAID TRICYCLE AND HENCE, NO STABBING INCIDENT TOOK PLACE INSIDE THE SAME.

II. THE HONORABLE TRIAL JUDGE ERRED IN FINDING THAT THE MOTIVE OF THE ACCUSED WAS THE REVENGE OF A JILTED SUITOR AND JEALOUSY WHEN NO IOTA OF EVIDENCE WAS PRESENTED TO SUPPORT THE SAME.

III. THE HONORABLE TRIAL JUDGE ERRED IN HOLDING THAT THE ACCUSED WAS POSITIVELY IDENTIFIED BY THE PROSECUTION WITNESSES AND IN SO HOLDING SIMPLY IGNORED THE SPONTANEOUS STATEMENT BY THE PRINCIPAL WITNESS ARMANDO ALVAREZ DURING THAT SAME NIGHT OF THE INCIDENT, THAT HE DID NOT RECOGNIZE THE PERSON WHO STABBED THE VICTIM.

IV. THE HONORABLE TRIAL JUDGE GRAVELY ERRED IN GIVING CREDIT TO THE WITNESSES OF THE PROSECUTION WHEN THEIR TESTIMONIES WERE REplete WITH INCONSISTENCIES AND IMPROBABILITIES, AND THE PRODUCT OF AN AFTERTHOUGHT.

V. THE HONORABLE TRIAL JUDGE ERRED IN NOT HOLDING THAT THE GUILT OF THE ACCUSED FOR THE CRIME OF MURDER WAS NOT PROVED BEYOND A REASONABLE DOUBT. (Rollo, pp. 37-38).

The accused questions the trial court's findings of facts and its appreciation of the prosecution's evidence.

We have carefully examined the records of the case and we find no cogent reason to depart from the

well?established rule that findings of trial court are accorded great respect in the absence of any showing that they ignored, overlooked or failed to properly appreciate matters of substance which would affect the results. (Centino v. Court of Appeals, G.R. No. 77298, January 13, 1989).

Serrano asserts that the victim was already "wounded and dead " (sic) when the tricycle driver, Armando Alvarez found him, contrary to the finding that the victim was stabbed while inside the tricycle driven by Alvarez. He inferred this from an alleged time discrepancy. Since the Espeleta's house to the "poblacion" could be traversed in ten minutes, the victim and Serrano would have reached the "poblacion" about an hour earlier than the reported time of the stabbing incident. At such, the stabbing could not have taken place inside the tricycle.

The assertion is without merit. The time of the stabbing incident need not be precise to the last second. The time given by the witnesses is based on mere estimates and not the result of a deliberate effort to look at a watch or clock, verify the time as compared to other clocks, and record the same in writing. The alleged time discrepancy cannot prevail over the positive identification of the accused.

Neither can the defense of alibi prevail over the positive identification of the accused, more so as no ill motive has been attributed to the prosecution witnesses to identify Serrano as the assailant. (People v. Trinidad, G.R. No. 79123-25, January 9, 1989; People v. Abigan, 144 SCRA 130 (1986); People v. Renejane, 158 SCRA 258 (1988); People v. de la Cruz, 148 SCRA 582 (1987)).

The appellant contends that Alvarez failed to positively identify him as the assailant.

We agree with the Solicitor General who states:

Appellant assails the finding that he was positively identified by the prosecution witnesses because eyewitness Armando Alvarez allegedly made a spontaneous and unrehearsed statement that he did not recognize the person who stabbed the victim (pp. 14-19, Appellant's Brief).

In open court, prosecution eyewitness Armando Alvarez, the tricycle driver, declared that he has no doubt that appellant was the person who stabbed the deceased (p. 55, tsn, December 7, 1983). He was sure appellant was the assailant because he had seen appellant several times before the incident (pp. 37-37, tsn, id.).

It may be true that in his affidavit Alvarez initially stated that he could not say (Hindi ko po masasabi, p.4, tsn, id.) Whether he would be able to recognize the assailant of the deceased. Alvarez, however, explained that at the time he was still trying to recall where he had seen appellant before (pp. 48-49, 54-55, tsn, id.). But later on he recalled he had seen appellant even before the incident (p. 38, tsn, id.) and he had no doubt about his identity (p. 55, tsn, id.).

Moreover, the identification made by Alvarez was corroborated by Espeleta who testified that appellant boarded the tricycle of Alvarez with the victim moments before the victim was stabbed in said tricycle. Both Espeleta and Alvarez had no motive to frame up appellant.

The appellant then contends that the motive was not clearly shown. Charito Valencia, the woman who was allegedly being courted by both the accused and the victim was not presented as a witness, thus "no concrete and clear motive was shown".

This Court has held that proof of motive is unnecessary where the assailant has been positively identified by the eyewitnesses. [People v. Delavin, 148 SCRA 257 (1987), People v. Ramilo, 147 SCRA 102 (1987)]. But in any event, evidence was adduced through the unrefuted testimony of Valencia's uncle Espeleta who testified that both the accused and the victim were courting his niece, Charito Valencia.

The accused points out some alleged inconsistencies in the testimonies of the prosecution witnesses.

We adopt the Solicitor General's observations:

There is no contradiction between the earlier testimony of Pat. Cornejo that the deceased had no companion (p. 6, tsn, February 8, 1984) and his subsequent statement that the companion of the deceased jumped from the tricycle (p. 7, tsn, id.). The first statement refers to the occasion when the deceased was brought to the hospital while the second statement refers to the occasion when the deceased boarded the tricycle after leaving Espeleta's house.

Likewise, there is no contradiction between the testimony of Alvarez to the effect (that) he was not told by the police to give a written statement (pp. 35-36, tsn, December 7, 1983) and Pat. Cornejo's testimony to the effect that he instructed Alvarez to go to the police to give a written statement (pp. 8 and 13-14, tsn, February 8, 1984). The seemingly contradictory testimonies can be reconciled. Alvarez's testimony refers to the occasion when he brought the deceased to the hospital and was here (sic) verbally interviewed by the police. (pp. 34-35, tsn, December 7, 1985). Pat. Cornejo's testimony refers to the occasion when he found it necessary to re-interview Alvarez to complete Alvarez's narration (pp. 13-14, tsn, February 8, 1984).

Pat. Cornejo also explained why it was not recorded in the police blotter that the deceased had a companion when he boarded the tricycle who subsequently jumped from the tricycle. He said he was waiting for the tricycle driver to come to the police headquarters to complete his report and sign the lower portion of the entry (pp. 14-15, tsn, February 8, 1984). This action of Pat. Cornejo merely shows that he was not a seasoned police officer but a typical simple and unsophisticated policeman of the rural areas, and does not by any means indicate a deliberate attempt to falsify the truth (*People vs. Verso*, 21 SCRA 1403).

Moreover, these discrepancies and inconsistencies are only on minor details that do not detract from the veracity of their testimonies. In fact, these strengthen their veracity as they show that the testimonies of the prosecution witnesses are unrehearsed. (See *People v. Delavin*, supra).

The accused also argues that it is incredible that the accused would stab the victim at a time when somebody would witness the incident.

As held in the case of *People v. Delavin*, supra:

One of the arguments invoked by the defense was that the accused-appellant, knowing that he could easily be identified, would not have committed the offenses openly but would have chosen a more subdued place and hour to prevent the discovery. In reply, the Solicitor General says: "Time has changed a great deal. The brazenness with which crimes are committed in broad daylight are too numerous to be recounted." We agree, with not a little sense of sadness. Vanished, indeed, are those gentler yesterdays when one's neighbor was, as certain as the break of dawn, a friend.

Lastly, it cannot be denied that the accused went into hiding after the date of the commission of the crime. He never reported for work again at the Peter Paul Corp. until the time he was dismissed.

WHEREFORE, the judgment appealed from sentencing the accused Serrano to suffer the penalty of reclusion perpetua and to pay the heirs of Jorge Villapando civil indemnity and damages in the amount of P36,667.40, is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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