

NATHANIEL ANDAYA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, HON. COURT OF APPEALS, JUDGE EDGAR GUSTILO AND JUDGE SIMPLICIA MEDINA, RESPONDENTS.

G.R. No. 75930. June 08, 1990

Ponente: PARAS, J.

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PARAS, J.:

Nathaniel Andaya, accused-petitioner, was convicted in a judgment rendered by the Municipal Trial Court in Cities, Branch IV, Iloilo City of the offense of less serious physical injuries, the dispositive portion whereof reads as follows:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the accused Nathaniel Andaya guilty beyond reasonable doubt, without the attendant circumstances and hereby sentences him to suffer an imprisonment of four (4) months and to pay the costs.

"With regard to the civil aspect, the same is deemed instituted. Based on the facts presented and established complainants Noel Jardeleza is entitled to P10,000.00 moral damages, he being injured in a public place where he was placed in shame and embarrassment, just because he exercised his duties as a faithful and honest public servant; P5, 000.00 for actual damages; and P7,000.00 for exemplary damages.

(p. 3, Petition, p. 7, Rollo)

The aforequoted decision was appealed to the Regional Trial Court, 6th Judicial Region, Branch XXVIII, Iloilo City which affirmed in toto the judgment of conviction.

The accused-petitioner thus filed a petition for review of the Regional Trial Court's decision with the then Intermediate Appellate Court (now Court of Appeals*), public respondent herein, which, on May 27, 1986, affirmed the judgment of conviction but modified the accused-petitioner's civil liability in this wise:

"Accused-appellant is ordered to pay Noel Jardeleza the following amounts:

'(a) P5,000.00 as moral damages;

'(b) P2,500.00 as temperate damages.'"

It deleted the award of actual and exemplary damages.

On June 13, 1986, petitioner filed a motion for reconsideration which was likewise denied by the then Intermediate Appellate Court, hence this petition for certiorari.

Prosecution evidence consists mainly of the testimony of the complainant Noel Jardeleza, corroborated by those of two other witnesses, Dr. Alejandro Gonzales and Engineer Saluta. Such evidence may be summed up as follows:

"On August 10, 1982 at around 5:30 p.m. private complainant, Noel Jardeleza and companion, Engineer Romeo Saluta went to Drive Inn Eatery at Fort San Pedro, Iloilo City. While at said eatery, they joined the table of Dr. Alejandro Gonzales, a relative of Noel Jardeleza and ordered beer. Subsequently, petitioner Nathaniel Andaya arrived at the same eatery and proceeded to the place where the three were seated and without saying a word allegedly pistol whipped Noel Jardeleza with a Caliber .45 pistol. Noel Jardeleza was hit on the back of the head and when he slumped down, he was kicked by the petitioner. Thereafter, Dr. Gonzales and Engineer Saluta brought Noel Jardeleza to Iloilo Doctors Hospital where he was attended by Dr. Soriano and Dr. Muyco. Private complainant sustained physical injuries and as a result of said incident, petitioner was charged with Less Serious Physical Injuries. This is the version of the private complainant, Noel Jardeleza and corroborated by his relative, Dr. Alejandro Gonzales and Engineer Saluta.

(p. 2, Decision; p. 18, Rollo)

The records further show that at the time the incident took place, Jardeleza was then a Technical Loans Inspector at the Development Bank of the Philippines. Also, according to Dr. Alejandro Gonzales, when Jardeleza slumped down on the concrete pavement, Andaya kicked him twice, poked the gun, and uttered "What did you do with my brother in law?" (p. 30, t.s.n., January 14, 1983). As a result of the assault, the victim sustained injuries consisting of "2 x 2 cm. V-shaped laceration at the right occipital area, abrasion, contusion right hand, palmar surface." (Comment, p. 9; Rollo, p.4)

For his part, the accused-petitioner offered the defense of denial and presented his own witnesses to support him. Their theory is as follows:

"Complainant Noel Jardeleza was at the Fort San Pedro Drive Inn with his officemate, Engr. Romeo Saluta drinking beer in the afternoon of August 10, 1982. Later, this twosome joined the group of Dr. Alejandro Gonzales in another table and continued drinking beer. (TSN of January 4, 1983, Testimony of Engr. Saluta, pp. 25-27; TSN of Jardeleza, pp. 7-9)

"It was much later in the afternoon of August 10, 1982 when petitioner, herein accused Nathaniel Andaya invited his friends. Hernani Sollano and Romeo Pendon for a snack.

"Upon reaching the said place, they saw the group of Noel Jardeleza drinking beer and apparently already tipsy. At this juncture, petitioner approached the table of Jardeleza's group in order to talk to Noel Jardeleza, but when he came nearer, Jardeleza pointed his right hand at the face of the accused. At this very precise moment, petitioner brushed aside and parried the hand of Jardeleza in an instinctive defensive gesture as petitioner mistook said gesture for an oncoming attack. Said parrying act caused Noel Jardeleza to fall on the cemented pavement, thus causing him some injuries. (TSN of August 25, 1983, Testimony of Hernani Sollano, pp. 19-18; TSN of March 7, 1984, Testimony of Nathaniel Andaya, pp. 23-38)."

(p. 2 Memorandum for Petitioner; p. 79, Rollo)

As a result of the aforesaid incident, Nathaniel Andaya was charged with the offense of Less Serious Physical Injuries and was eventually convicted therefor.

Two issues are raised for Our determination, namely:

- (1) Whether or not petitioner's guilt for less serious physical injuries has been established beyond reasonable doubt; and
- (2) Whether or not the award of moral and temperate damages made in favor of Jardeleza was in accordance with law.

The defense contends that Jardeleza injured himself. According to Andaya, when he was approaching the complainant, the latter raised his right arm "in a gesture not unlike a person ready to attack". Andaya's instinct was to parry Jardeleza's arm, which caused the latter to fall off from his chair and thereafter on the cemented ground.

With two conflicting theories, the real issue in the instant case, therefore, rests on credibility.

It is undisputed that there was a physical contact between the petitioner and the victim. While Andaya claims that he merely pushed aside Jardeleza, the latter maintains that he was pistol-whipped. In convicting the petitioner, the trial court relied heavily on the evidence advanced by the prosecution. After a careful review of the evidence on record, We find no plausible reason to hold otherwise.

It is the contention of the petitioner that when there are two conflicting theories, as in the case at bar, existence of motive is essential in determining which of the two is more likely to be true. He asserts that the prosecution has failed to show his motive in inflicting injuries on the person of the complainant on August 10, 1982. Petitioner further avers that there is no basis for the trial court's finding that he was "hot-tempered" and that his conviction for maltreatment in another case cannot be used against him in the present case.

The aforesaid assertions cannot be given credence as such cannot overcome the evidence established by the prosecution.

Petitioner's guilt was not arrived at solely on the basis of his temperament, motive, or previous criminal involvement. The trial court found that credible witnesses testified on the identity of the petitioner Andaya as the assailant of the victim Jardeleza. Dr. Alejandro Gonzales, a prosecution witness, was described by the trial court as "a person of integrity and not a drinker". He attested that "they had not been able to start drinking when a man suddenly passed by my left side and approached Noel Jardeleza and directly hit him with a .45 caliber pistol." In the same testimony, he identified said assailant as Nathaniel Andaya. (p. 6, t.s.n., Jan. 4, 1983) The aforesaid testimony was corroborated by Engineer Romeo Saluta and complainant Noel Jardeleza himself.

Undoubtedly, such positive identification, even in the absence of any showing of petitioner's motive, is sufficient for conviction. It must be borne in mind that motive is never an essential element of a crime. As expressed in the case of *People vs. Yurong*, 133 SCRA 26 citing *People v. Realon, et al.*, 99 SCRA 422, "(M)otive is not essential to conviction when the accused as in this case, were positively identified and there is no doubt as to their identity as culprits."

Evidently therefore, there is no need to prove motive where the culprit has been positively identified by eyewitnesses. But in any event, for whatever it may be worth, evidence was also adduced to show that the petitioner harbored resentments against the victim because the latter had rejected the fishpond loan application of the former. The trial court aptly said:

"The motive behind the incident is very strong on the part of the accused Nathaniel Andaya. The altercation between the accused's brother-in-law Eliseo Somes and complainant Noel Jardeleza was only four days ago and the very cause of the altercation was the unfavorable recommendation made by Noel Jardeleza on the very fishpond application of the accused Nathaniel Andaya" (p. 15, Decision).

Anent the relationship of Dr. Gonzales (a relative) and Engineer Saluta (a friend) to Jardeleza, We agree with the respondent Court that said affinity did not affect their credibility as witnesses. Their testimonies were not only natural, clear, and spontaneous but corroborated circumstantially by medical findings. Besides, there is nothing in the record which shows any motive which could have impelled these two witnesses to pervert the truth or falsely testify against the petitioner. As held in the case of *People v. Canada*, 144 SCRA 121, "(W)hen there is no

showing of improper motive on the part of witnesses for testifying against the accused, the fact that they are related to the victim does not render their clear and positive testimony less worthy of full faith and credit. On the contrary, their natural interest in serving the conviction of the guilty would deter them from implicating persons other than the culprits, for otherwise, the latter would thereby gain immunity." (People v. Narajos, 145 SCRA 99 citing People v. Radomes, 141 SCRA 548; People v. Jabequero, 125 SCRA 144).

Truly, the defense has failed to show by way of evidence that the prosecution witnesses were motivated to testify against the petitioner with partiality, bias, or prejudice.

On the basis of the foregoing, We find that the petitioner's guilt has been established beyond reasonable doubt; thus, there is no reason to reverse the judgment affirming the petitioner's conviction.

Lastly, We sustain the respondent Court of Appeals on the civil damages due, to wit:

"Due to the social standing of the victim, his employment classification and the circumstances under which he was assaulted, the reduced amount of P5,000.00 as moral damages is considered fair and just. We agree with the People's counsel that considering that the complainant-victim has been injured and medically treated and despite the absence of proof of actual damage, he is entitled to temperate damages in the amount of P2,500.00 (Necessito, et al. v. Paras, et al., 104 Phil. 75, 85; Art. 2224, N.C.C.)."

The New Civil Code provides:

"Art. 2217. Moral damages include physical suffering, xxx fright, xxx social humiliation, and similar injury. Though incapable of pecuniary estimation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

"Art. 2219. Moral damages may be recovered in the following analogous cases:

'(1) A criminal offense resulting in physical injuries;

x x x"

It cannot be denied that Noel Jardeleza suffered physically and that he was frightened and humiliated socially. As the Solicitor General correctly observed: (a) he was mauled by petitioner in a public place (a restaurant) and in the presence of Gonzales, Saluta, and others; (b) he sustained injuries requiring confinement for seven days, and (c) he was frightened as petitioner poked a gun at him. (Comment, p. 9).

The award of temperate damages in the amount of P2,500.00 is moderate and reasonable, considering that the victim has been injured and medically treated and consequently had to spend for medicines, hospitalization and doctor's fees.

WHEREFORE, the appealed decision is AFFIRMED, with costs against the accused-petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by Justice Esteban M. Lising and concurred in by Justices Rodolfo A. Nocon and Federico B. Alfonso, Jr.

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