

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. JAIME CARANZO Y CATINDIG ALIAS "JIMMY", ARTURO DE VERA Y CARLOS AND ROSEMARIE BALIGNASAY, ACCUSED, ROSEMARIE BALIGNASAY, ACCUSED-APPELL...

G.R. No. 76743. May 22, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Quezon City, Branch 99, the dispositive portion of which reads:

"WHEREFORE, the court finds the accused:

1. Arturo de Vera y Carlos, GUILTY beyond reasonable doubt of the crime of Homicide, penalized under Article 249 of the Penal Code, with the mitigating circumstance of voluntary surrender, and without any aggravating circumstance and applying the Indeterminate Sentence Law, hereby sentences him to suffer the penalty of TEN (10) YEARS AND ONE (1) DAY of prision mayor as minimum to FOURTEEN (14) YEARS and EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal as maximum;

"2. Jaime Caranzo y Catindig, likewise GUILTY beyond reasonable doubt of the crime of Homicide, penalized under Art. 249, without any mitigating or aggravating circumstance, and applying the Indeterminate Sentence Law hereby sentences him to suffer the penalty of TWELVE (12) YEARS of prision mayor as minimum to FOURTEEN (14) YEARS and EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal as maximum;

"3. Rosemarie Balignasay - GUILTY beyond reasonable doubt of the crime of Parricide, penalized under Art. 246, without any mitigating or aggravating circumstance, and hereby sentences her to suffer the penalty of LIFE IMPRISONMENT or reclusion perpetua.

"4. All the three accused are hereby ordered to pay jointly and severally the heirs of the deceased Antonio Eugenio, Jr., indemnity in the amount of P30,000.00, P3,975.00 in actual damages, P50,000.00 in moral damages and to pay jointly the costs.

"All the three accused shall be given full credit for their preventive imprisonment." (Rollo, p. 38)

The amended information filed against the accused alleges:

"The undersigned accuses ROSEMARIE BALIGNASAY OF THE crime of Parricide and JAIME CARANZO Y CATINDIG alias "JIMMY" and ARTURO DE VERA Y CARLOS of the crime of Murder, committed as follows:

"That on or about the 1st day of August, 1983, in Quezon City, Metropolitan Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROSEMARIE BALIGNASAY, being then lawfully and legally married to the victim, ANTONIO EUGENIO JR. Y LLANES, conspiring and confederating together with her co-accused ARTURO DE VERA and JAIME CARANZO, did then and there

willfully, unlawfully and feloniously, with intent to kill and with evident premeditation, stab the said ANTONIO EUGENIO, JR. Y LLANES on the different parts of his body, thereby inflicting upon the said ANTONIO EUGENIO, JR. Y LLANES serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said ANTONIO EUGENIO, JR. Y LLANES." (Records, pp. 13-14)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

"1. Dr. Dario L. Gajardo - physician - major of the PC Crime Laboratory, Camp Crame testified that at around 11:00 o'clock in the morning of August 1, 1983 he conducted an autopsy on the cadaver of a dead person named Antonio Eugenio, Jr.

"That the request for medical examination (Exh. "A") was made by the Northern Police District Investigation Division, thru Quezon City Patrolman Restituto de Leon and the identification of the body (Exh. "D") was made by victim's mother, Mrs. Cristina Eugenio; that he prepared Medico-Legal report No. M-2168-83 (Exh. "B") dated August 1, 1983 with the following findings:

Fairly developed, fairly nourished male cadaver in rigor mortis with post mortem lividity over the dependent portions of the body. Conjunctivae are pale. Lips and nailbeds are cyanotic. There are tattoo marks at the right mammary region and multiple minute scars at the left lumbar region.

TRUNK AND EXTREMITIES:

- (1) Stab wound, right infraclavicular region, measuring 1.9 by 0.5 cm, 4 cm right of the anterior midline, 8 cm deep, directed upwards, posterior-wards and lateralwards, passing thru the 2nd intercostals space, lacerating the upper lobe of the right lung.
- (2) Abrasion, left suprascapular region, measuring 10 by 0.9 cm., 10 cm from the posterior midline.
- (3) Linear abrasion, right infrastapular region, measuring 14 by 0.4 cm, 17 cm from the posterior midline.
- (4) Linear abrasion, right lumbar region, measuring 4 by 0.3 cm, 13 cm from the posterior midline.
- (5) Linear abrasion, right lumbar region, measuring 8 by 0.3 cm. 13 cm from the posterior midline.
- (6) Abrasion, proximal 3rd of the left arm, measuring 9 by 1 cm, 3 cm lateral to its anterior midline.
- (7) Stab wound, point of entry, middle 3rd of the left arm, measuring 13 by 4 cm, 3 cm medial to its posterior midline, directed upwards, anteriorwards and medialwards, making a point of exit at the proximal 3rd of the left arm, measuring 3.4 by 2 cm, 3 cm medial to its anterior midline.
- (8) Stab wound, middle third 3rd of the left forearm, measuring 2.5 by 1 cm, 2 cm medial to its anterior midline.
- (9) Incised wound, middle 3rd of the right forearm, measuring 6 by 1.5 cm, 4 cm medial to its posterior midline.
- (10) Stab wound, middle 3rd of the left forearm, measuring 2.5 by 1 cm. 4.5 cm medial to its posterior midline.
- (11) Linear abrasion, middle 3rd of the left forearm, measuring 6 by 0.3 cm. 4 cm lateral to its posterior midline.
- (12) Abrasion, right iliac region, measuring 1 by 1.5 cm, 10 cm from the anterior midline.
- (13) Stab wound, middle 3rd of the right thigh, measuring 2.1 by 0.5 cm, 1.5 cm medial to its anterior midline.
- (14) Linear abrasion, middle 3rd of the right thigh measuring 3.5 by 0.2 cm. 3 cm medial to its anterior midline.
- (15) Linear abrasion middle 3rd of the right thigh, measuring 4.2 by 0.2 cm, just medial to its anterior midline.

The right lung is collapsed. Stomach is full of partially digested food particles consisting mostly of rice and the rest of the visceral organs are grossly unremarkable.

"That he likewise prepared a sketch of the human body (Exh. "C") showing the location of wounds suffered by the victim. Finally, he prepared a post-mortem certificate of death. (Exh. "E") showing the cause of death as "Cardio respiratory arrest due to shock and hemorrhage secondary to stab wounds.

"2. Cristina Llanes Vda. de Eugenio - testified that she is the mother of Antonio Eugenio, Jr., the victim; that victim is married to accused Rosemarie Balignasay under marriage contract, Registry No. 56 (5-79) (Exh. "F"); that she knows the two other accused Jaime Caranzo and Arturo de Vera, his son's best friends.

"That on August 1, 1983 at 12:30 in the morning she was in their house at 30 Cuatro de Julio, Galas, Quezon City. With her then were her sons Antonio, Rodrigo and Jose and they were lying down on their stall-like house in the squatter's area. That while asleep in their house, she heard their house being stoned and looked out and saw Jimmy, Arturo and Rosemarie; that she peeped thru the window and saw Jimmy Caranzo, saying 'Boyot Lumabas ka magtuos tayo'. 'Boyot' refers to her son the victim, Antonio Eugenio, Jr.; that she tried to prevent her son from going out and the ply-wood door was forced open and Jimmy Caranzo entered their house together with Arturo de Vera and Rosemarie; that Jaime Caranzo immediately stabbed his son on the left portion of the breast with a solid stainless (sic) about one foot long; that Arturo de Vera also stabbed her son hitting his right chest; that Rosemarie was holding a piece of wood, about 1 1/2 to 2 feet in length;

"That her son was able to flee and went outside their house and ran towards Bayani Street; that the three followed him (Antonio) and she also followed; that she saw her son fall on a culvert (embornal) at Bayani Street and then Arturo de Vera stabbed him again and Rosemarie Balignasay was saying "Sige, saksakin pa at patayin na ninyo"; that she identified all the three (3) accused in open Court; that she and her son Michael did not go near the culvert as they were afraid and later chased by the accused and they hid in a dark place at Cuatro de Julio and corner Liberation St. which is 'seeing distance' from the culvert where her son fell; that when she felt that the assailants were gone she sought the assistance of the police. With the police, she went to the scene of the crime but her son was already brought to the hospital; the owner of the house fronting the street (culvert) informed her that her son was brought to Mt. Banawe Hospital; that she and her son Michelle (sic) went to Mt. Banawe Hospital, but she was informed that her son was dead on arrival.

"That she next went to police headquarters at Kamuning to look for the police who brought her son to the hospital, and she met Pat. Restie de Leon; that with son Michelle (sic) and other companions she was brought to the Santiago Funeral Homes; that she identified the stabbed and bloodied cadaver of her son and she cried and cried upon seeing her son;

"That she paid the Santiago Memorial Homes P1,000.00 (Exh. "L" and "M") for embalment expenses and services the Davao Funeral Homes, P2,800.00 (Exh. "J") for coffin and other funeral expenses, and P175.00 for the cemetery burial lot (Exh. "K")

"She likewise testified that before the incident, her son confessed to her that Arturo de Vera threatened to kill her son because de Vera wants to own Rosemarie Balignasay; that she was told by her son also that Jaime Caranzo threatened to kill him because of a case of robbery-hold-up where complainant pointed to Jaime Caranzo instead of her son, as the culprit.

"That on August 3, 1983, she executed a sworn statement (Exh. "N", "N-1") identifying in jail Arturo de Vera as one of those who killed her son. She testified further that on the first week of January 1985 at about 4:00 o'clock in the afternoon, she was in the Galas Market vending; that Rosie Caranzo and Cesar Balignasay, mother of Jaime Caranzo and father of Rosemarie, respectively, went to her in the market and offered ten thousand pesos for settling the case; that she did not agree or accept the proposal made by the two and she told them 'we will settle the case in court'.

"3. Pat. Restituto de Leon - policeman connected with the Quezon City Police Investigation Division, testified that on August 1, 1983 the desk officer, Cpl. Manuel Siocon, assigned to him the investigation of the killing of one Antonio Eugenio, Jr. of Galas, Quezon City;

"That he proceeded to the scene of the crime on the early morning of August 1, 1983 and conducted inquiry and information gathering and finally brought the victim's mother and brother (Michael Eugenio) to their office for investigation; that he saw the body of the victim at the hospital more or less 2:00 or 3:00 in the morning of August 1, 1983; that he prepared the request for autopsy addressed to the PC Crime Laboratory (Exh. "A");

"That he took also the statement (Exh. "P") of Jaime Caranzo, one of the accused; that before taking his statement he apprised him of his constitutional rights to remain silent and right to counsel (Exh. "P-3"); that he arrested Jaime Caranzo several hours after the incident along Cuatro de Julio; that he (Caranzo) denied to him any knowledge about the stabbing incident;

"4. Rodrigo Eugenio - brother of the victim, testified that at 12:00 o'clock in the morning of August 1, 1983 he was sleeping but was awakened by the shouts of her (sic) mother at 12:45; that he peeped through the window and saw Jimmy Caranzo chasing his brother Antonio Eugenio; that Caranzo was holding a jungle bolo; that he went out to Luzon St. and upon reaching Cuatro de Julio St. Jimmy Caranzo immediately showed up and he tried to stab him twice but he ran away; that he identified Jimmy Caranzo in open court who he said one (sic) among those who killed Antonio Eugenio; that he was at home with her (sic) mother when his brother was being killed." (Rollo, pp. 26-29)

On the other hand, the defense version as summarized by the trial court is as follows:

"1. Arturo de Vera - 23 years old, married, vendor and residing at Liberation St., Galas, Quezon City admitted having killed Antonio Eugenio in self-defense.

"He claimed that on August 1, 1983 at about 12:30 in the morning he went to the house of Jaime Caranzo to invite him on the birthday of Rosemarie Balignasay on August 8th; that he talked to Caranzo for few minutes then he went home; that on his way home, Antonio Eugenio waited (inabangan) for him; that Antonio Eugenio suddenly came out from a dark corner and saw Eugenio holding a bladed weapon so he moved backwards; that he was stabbed by Eugenio but he moved backwards and ran away but was chased and wrestled (nagbuno) for the possession of the bladed weapon, and he was able to get hold or wrestle possession of the weapon from Eugenio; that he used the same in stabbing him; that before the encounter he has no weapon;

"That after he stabbed Eugenio he left the place and went home;

"That he knew Jaime Caranzo was left in his house; that Rosemarie Balignasay was at the time on a certain corner; that she was saying 'tama na, tama na'; that Balignasay was there as Balignasay's house is only two blocks away;

"That upon reaching home, he hurriedly went to Angeles City to surrender to a certain Major Mendoza with the Philippine Constabulary because he was afraid of Eugenio's relatives who were hunting him; that he left six o'clock and reached Angeles City around 10:00 o'clock of August 1, 1983;

"That he was brought by the Angeles City police to Quezon City on August 3, 1983 and was investigated by the Quezon City Police;

"That he has known Antonio Eugenio since their boyhood days; that he admitted that he and Rosemarie Balignasay are living as husband and wife after Rosemarie separated from her husband, the victim;

"2. Rosemarie Balignasay - she denied knowledge of the killing of her husband Antonio Eugenio and likewise denied that she was seen holding a piece of wood at the time Eugenio was stabbed by her co-accused;

"That she knew Jaime Caranzo for a long time and his house at 50 Cuatro de Julio, Galas, Quezon City; that

she went to Caranzo's house at past 12:00 midnight on August 1, 1983 to meet Arturo de Vera; that Arturo went to Caranzo's house to invite the latter on her birthday, August 8th; that he met de Vera and they went home;

"That on her way home, Antonio Eugenio suddenly appeared armed with a knife and tried to stab Arturo de Vera; that de Vera pushed her and he grabbed the hand of Antonio Eugenio; that they struggled with each other and Arturo was able to extricate himself and ran towards Bayani St.; that Antonio Eugenio chased de Vera and she tried to follow; that she saw the two struggling for the possession of the knife and de Vera was able to get hold of the knife and stabbed Eugenio; that she was not able to count how many times Eugenio was stabbed; that Antonio Eugenio fell down, and they just went home to Liberation St.;

"On cross-examination, she testified that she was legally married to Antonio Eugenio on April 27, 1979; that she stayed with him for four years (lived-in before marriage), first Mabini, Galas, Quezon City, then she went home and stayed with her parents when they separated in 1981 and her husband also stayed with his parents; that they had trouble because Antonio was jobless, using Marijuana and was gambling with his barkada; that she was mauled often;

"That she never saw her husband after that; that she worked as vendor in the Galas market and that she came to know Arturo de Vera who was kind to her, and they lived as husband and wife since January 1983;

"3. Jaime Caranzo - the other accused denied any participation in the killing of Antonio Eugenio; that on August 1, 1983 at 12:30 in the morning, he testified that he was at home in their house at Cuatro de Julio, Galas, Quezon City; that he knows Arturo de Vera, one of their customers in the market; that on the same date and time, Arturo de Vera went to their house to invite him to a birthday of Rosemarie; that he was watching TV when de Vera arrived; that there were other persons in their house, his classmate Raul Dacanay, two brothers and his mother; that de Vera stayed for only one minute and then went home; his classmate Raul Dacanay also left after a while;

"That he then went upstairs to rest or to sleep; he woke up only past 7:00 o'clock and he proceeded to the NBI to get clearance; he went back at 12:00 and stayed in their house from 12:00 to 4:00 p.m.; that a policeman went to their house before 4:00 and at 4:00 p.m. to arrest him; that he denied the testimony of Mrs. Eugenio that he went to her residence calling 'Boy lumabas ka magtuos tayo'; that he further denied that he was armed with a sharp-pointed weapon and used the same to stab the left chest of victim Antonio Eugenio;

"4. Wilfredo Caranzo - testified that at about 11:30 on the night of July 31, 1983 he was in their house at 50 Cuatro de Julio, Galas, Quezon City with his mother, sister Elvira and Jaime Caranzo; that he likewise saw Raul Dacanay a classmate of his brother Jaime, who was in their house past 11:00 borrowing a book from his brother, that Arturo de Vera was also there in their house and he was inviting his brother to a birthday of Rosemarie Balignasay; that after the two (de Vera and Dacanay) left, Jaime Caranzo was still watching TV and after some conversation they (he and Jaime Caranzo) went upstairs to sleep in the same bedroom. (Rollo, pp. 30-32)

Of the three who were convicted, only Jaime Caranzo and Rosemarie Balignasay filed their notices of appeal (Records, p. 363 and p. 378 respectively). Although, both notices of appeal were filed with the Court of Appeals, the records of the case with regards to Balignasay were forwarded to the Supreme Court as the penalty meted out as to her case was reclusion perpetua. (Article VIII, Section 5 (2) (d), Constitution) There is nothing in the records to show what became of Jaime Caranzo's appeal to the Court of Appeals. Balignasay is, then, the only appellant in this case.

She raises the following assignment of errors in her appeal, to wit:

I

"THE HON. TRIAL COURT ERRED IN NOT FINDING THAT ARTURO DE VERA HAD NO MOTIVE TO KILL ANTONIO L. EUGENIO, JR. THE EXISTENCE OF SUCH MOTIVE IN ARTURO DE VERA IS ESSENTIAL IN DECIDING WHETHER ROSEMARIE BALIGNASAY IS GUILTY OF CONSPIRING WITH HIM TO KILL ANTONIO EUGENIO, JR., FOR THE EVIDENCE OF SUCH ALLEGED CONSPIRACY BEING CIRCUMSTANTIAL, MOTIVE NOT ONLY IS IMPORTANT, BUT IS CONTROLLING."

II

"THE HON. TRIAL COURT ERRED IN FINDING THAT ANTONIO EUGENIO, JR.'S ONLY FATAL WOUND ON HIS RIGHT CHEST, MEASURING 1.9 BY 0.5 CMS. AND 8 CM. DEEP WHICH PASSED THROUGH THE 2ND INTERCOSTAL SPACE AND LACERATED THE RIGHT LUNG'S UPPER LOBE, WAS INFLICTED INSIDE ANTONIO EUGENIO, JR.'S HOUSE IN 4 DE JULIO STREET, AS CLAIMED BY HIS MOTHER; AND NOT IN CORNER BAYANI AND SAN ISIDRO STREETS, AS CLAIMED BY ARTURO DE VERA."

"THE TESTIMONY (SIC) SUCH WOUND WAS INFLICTED AT NO. 30 4 DE JULIO IS LEGALLY INCREDIBLE. FOR CONSIDERING THE NATURE OF SUCH WOUND, RAPID - IF NOT INSTANT - DEATH COULD HAVE RESULTED, OR AT LEAST THE VICTIM WOULD HAVE IMMEDIATELY WEAKENED AND COLLAPSED: (1) DUE TO THE LUNG BEING PENETRATED BY THE BLADE OF THE WEAPON; (2) DUE TO PNEUMOTHORAX, OR ENTRY OF AIR BETWEEN THE WALLS OF THE CHEST AND THE LUNG; AND (3) DUE TO MASSIVE HEMORRHAGE, WHICH COULD BE THE RESULT OF LARGE BLOOD VESSELS BEING CUT OR SEVERED. IT IS THUS IMPROBABLE (SIC) ANTONIO EUGENIO, JR., AFTER RECEIVING SUCH WOUND, COULD HAVE RUN 4 BLOCKS AWAY FROM HIS TO HOUSE IN 4 DE JULIO STREET TOWARDS LUZON AVENUE; THEN TO SAN ISIDRO STREET AND FROM THERE TO CORNER SAN ISIDRO AND BAYANI STREETS."

III

"SINCE ANTONIO EUGENIO, JR.'S ONLY FATAL WOUND COULD NOT HAVE BEEN INFLICTED ON HIM INSIDE HIS HOUSE AT 4 DE JULIO STREET, THEN THE HON. TRIAL COURT ERRED IN NOT SUSTAINING THE DEFENSE TESTIMONIES THAT WHILE ARTURO DE VERA AND ROSEMARIE BALIGNASAY WERE WALKING ALONG 4 DE JULIO STREET, ANTONIO EUGENIO, JR. SUDDENLY APPEARED FROM A DARK CORNER, STABBED AT BUT MISSED ARTURO DE VERA, WHO RAN BUT WAS CHASED BY ANTONIO EUGENIO, JR. STARTING AT 4 DE JULIO STREET, THEN LUZON AVENUE, THEN SAN ISIDRO STREET, THEN AT CORNER SAN ISIDRO AND BAYANI STREETS, WHERE ARTURO DE VERA WAS CORNERED; AND WHERE AFTER A STRUGGLE FOR POSSESSION OF A KNIFE THEN HELD BY ANTONIO EUGENIO, JR., ARTURO DE VERA FINALLY GOT POSSESSION OF SUCH KNIFE WITH WHICH HE STABBED MANY TIMES ANTONIO EUGENIO, JR., INFLICTING ON HIM SEVERAL WOUNDS, INCLUDING THE LONE FATAL WOUND ON HIS RIGHT CHEST, WHICH RESULTED IN RAPID, IF NOT INSTANT, DEATH OR, AT LEAST, IN THE VICTIM IMMEDIATELY WEAKENING AND COLLAPSING."

IV

"THE HON. TRIAL COURT ERRED IN FINDING THAT THE EVIDENCE OF ALLEGED CONSPIRACY ON WHICH ROSEMARIE BALIGNASAY'S CONVICTION IS BASED, WAS PROVED BEYOND REASONABLE DOUBT. FOR SUCH EVIDENCE, WHICH IS CIRCUMSTANTIAL, NOT ONLY IS INHERENTLY WEAK, BUT IS INCONSISTENT WITH THE CONSTITUTIONAL PRESUMPTION OF

ROSEMARIE BALIGNASAY'S INNOCENCE. SHE MUST HENCE BE ACQUITTED AND BE DISCHARGED." (Rollo, p. 126-127)

The only question that needs to be answered in deciding whether the appellant is innocent or guilty of parricide is whether or not conspiracy exists in the instant case.

It is well-settled in our jurisprudence that when there is conspiracy, the act of one is the act of all, and all persons taking part in the crime shall be held guilty as principals. It is of no moment that the appellant did not take part in the actual commission of every act constituting the crime. She is responsible for all the acts of the others done in the furtherance of the conspiracy. (See *People v. Maranion*, 199 SCRA 421, 433 [1991] citing *People v. Obando*, 182 SCRA 95 [1990]; and *People v. Quinones*, 183 SCRA 747 [1990])

In the case at bar, the appellant in her four assignments of errors asserts that there is no conspiracy. She maintains that the version of the prosecution showing the existence of conspiracy is not credible.

The appellant states that the prosecution's version has several flaws. First, Cristina's testimony that the victim ran four (4) blocks (should be three (3) blocks [TSN, March 27, 1985, p. 7]) is not true since the victim could not have run those four blocks after receiving the fatal wound inside Cristina's house since he would have died immediately or would have at once weakened and collapsed. Second, Cristina failed to mention in her statement (Exhibit "N"), given two (2) days after the stabbing, the fact that Balignasay was holding a 1 ½ to 2 feet piece of wood and that Balignasay shouted "sige saksakin pa at patayin" which was included in her open court testimony. (TSN, April 25, 1984, p. 11-12) The only thing she mentioned in her statement as to Balignasay's participation is that she was with the two other accused. Third, Michael whom Cristina mentioned was with her during the time of the stabbing, did not mention Balignasay in his statement (Exhibit "O") at all. Fourth, Cristina had motive to testify against Balignasay due to Balignasay's unfaithfulness to her son. Because of the flaws just mentioned, the appellant contends that the version of the defense denying the conspiracy is then, more credible.

The contention is without merit. The alleged flaws are justifiable.

As to the fact that the victim could not have run four (4) (three (3) according to Cristina's testimony) blocks after receiving the fatal stab wound, there is no showing in the medico-legal report and the testimony of Dr. Gajardo, the medico-legal examiner, to support the theory of the appellant. In fact, the appellant's theory on instantaneous death runs counter to Dr. Gajardo's testimony that the victim could have been saved if timely medical assistance was given. (See TSN, July 31, 1984, p. 4)

As to the second and third flaws, suffice it to say that affidavits being taken ex parte usually are incomplete and often inaccurate, caused sometimes from partial suggestions, sometimes for want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject. (*People v. Urquia*, G.R. No. 94787, November 19, 1991) The statement given by Cristina placed the appellant at the scene of the crime. It was in her testimony in open court that she expounded on Balignasay's participation.

As to the supposed motive of Cristina to falsely testify against the appellant, there is no showing in the records by clear and convincing evidence (see *People v. Urquia*, supra) that she has carried a grudge against the appellant because of the estrangement between her son and the appellant. Nowhere in her more than 100-paged testimony did she malign or bad-mouth Balignasay. Her testimony rings true because she could have testified that the appellant had a hand in the stabbing of her son yet she did not. There was also no reason to include Caranzo as one of the accused if she was just bent on seeking revenge on the appellant and her lover. Furthermore, in the span of almost two (2) years that her son and the appellant were separated, there is no mention of any altercation

between herself and the appellant even though they had every opportunity to cross paths and to exchange heated words.

The appellant's defense, however, did not stop there. She contends that assuming that Cristina Eugenio's testimony is true, the two circumstances that she was holding a 1 1/2 to 2 feet long piece of wood while the victim was being stabbed and that she was shouting "Sige, saksakin at patayin" while the victim was being stabbed again are not sufficient to establish conspiracy.

While it is true that a finding of criminal conspiracy must be supported by evidence constituting proof beyond reasonable doubt, it is equally true that such evidence need not be direct evidence. (*People v. Gabatin*, G.R. No. 84730, October 28, 1991) It may be deduced from the mode and manner in which the offense was perpetrated. The conditions attending its commission and the acts executed may be indicative of the common design to accomplish a criminal purpose and objective. If there is a chain of circumstances to that effect, then, conspiracy has been established. (*People v. Arroyo*, 201 SCRA 616, 629 [1991])

Conspiracy has been established beyond reasonable doubt. Aside from the two circumstances that the appellant mentioned above, we agree with the Solicitor General that the following additional circumstances show the existence of conspiracy: (1) Arturo de Vera and Rosemarie Balignasay were living together as husband and wife after the latter separated from the victim Antonio Eugenio, Jr.; (2) Both Arturo and Rosemarie were with Jaime Caranzo when the latter shouted at the victim to come out of his house and fight; (3) Forthwith, the trio, armed with knives and a piece of wood, forcibly opened the ply-wood door of the victim's house; and once inside, Arturo and Jaime started to stab the victim, while Rosemarie stood by the door and beat the victim with the piece of wood she was holding when the latter passed thru the door to flee; (4) The three chased the victim until the latter fell into a culvert along Bayani Street, where he was stabbed repeatedly by Arturo and Jaime in the presence of Rosemarie who exhorted them to continue on stabbing the victim; (5) Thereafter, the trio left together, leaving behind the victim who was mortally wounded; and, (6) The victim sustained no less than fifteen (15) wounds of different nature, indicating that they were inflicted by more than one assailant.

These circumstances show the unity of criminal purpose.

In view of the foregoing, the assertion of the appellant in her first assigned error that motive is a controlling factor to establish conspiracy in this case must fail.

Whether motive exists is not essential in the case at bar. This Court has time and again ruled that lack of motive does not preclude conviction when the crime and the participation of the accused therein are definitely established. (*People v. Ballinas*, G.R. No. 93300, October 4, 1991)

The appellant was placed at the scene of the crime and her actions before, during and after the incident indubitably show her participation in the crime committed.

The proper penalty, however, to be imposed should only be reclusion perpetua and not life imprisonment or reclusion perpetua as the trial court rendered. It is the oft-repeated rule that in a judgment of conviction for a felony, the court should specify the appropriate name of the penalty inasmuch as under the scheme of penalties in the Revised Penal Code, the principal penalty for a felony has its own specific duration and corresponding accessory penalties (See *People v. Aquino*, 186 SCRA 851, 863 [1990]). There is no penalty of life imprisonment in the scheme of penalties under the Revised Penal Code (*People v. Samillano*, G.R. No. 62088, March 6, 1992).

The actual damages should be P3,980.00 as per Exhibits "J", "K", "K-3", "L", and "M". The death indemnity is increased to P50,000.00. The P50,000.00 moral damages is deleted.

WHEREFORE, the decision appealed from is AFFIRMED with the above modifications.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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