

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITO SABADO, ACCUSED-APPELLANT.*G.R. No. 76952. December 22, 1988*

Ponente: MELENCIO-HERRERA, J.

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A pronouncement of the Trial Court[*] finding the Appellant, Juanito Sabado, guilty as charged of the crime of Murder for the killing of Emiliano Natura, and sentencing him to suffer the penalty of reclusion perpetua; to indemnify the offended party in the sum of P30,000.00 without subsidiary imprisonment in case of insolvency; and to pay actual damages in the sum of P8,560.00, moral damages in the sum of P5,000.00, exemplary damages in the sum of P2,000.00; and to pay the costs, impelled him to come before this Court.

Appellant assails what he claims are the errors committed by the Trial Court giving credence to the testimonies of the prosecution witnesses in disregard of own version of what transpired on the night of the occurrence of the crime. Thus, he seeks the review and reversal of the judgment of conviction and asks for his acquittal. A review of the records of the case, however does not justify a conclusion contrary to the Trial Court's findings. The verdict of guilty must be affirmed.

The prosecution evidence, as established by the testimonies of its witnesses and, as culled from the Decision of the Trial Court, discloses that at about 5:00 o'clock in the afternoon of December 1, 1983, Appellant appeared at Sitio Bagsit Bo. Unzad, Villasis, Pangasinan, and participated in the harvesting of palay in the ricefields tenanted by Monico Natura, father of the deceased victim Emiliano Natura. Among the persons who took part in the harvest were Pedro Delfin, Ceferino Natura, Emiliano Natura, and Monico Natura. When it became too dark for the reapers to continue with their task, Emiliano Natura, Pedro Delfin and Appellant repaired to their tent. Appellant, being the brother-in-law of Emiliano, was to stay with the latter in the same tent. Ceferino Natura, younger brother of Emiliano, joined them in the tent and they all engaged in friendly conversation for some time. The tent was lighted by a single kerosene lamp improvised from a bottle placed inside the tent.

Around 10:00 o'clock in the evening, Ceferino Natura and Pedro Delfin excused themselves from Emiliano and Appellant in order to get cigarettes. Ceferino was to get cigarettes from his tent, while Delfin was to do so from the wife of Monico in another tent. Ceferino and Delfin left the tent through the open portion on the eastern side of the tent. At that time, Emiliano was already lying down while Appellant was still sitting. As Ceferino and Delfin had walked a distance of about five (5) meters away from the tent, they heard a shot coming from the tent they had just left. Instantaneously, they turned around and saw Appellant standing near Emiliano in a stooping position holding a gun and firing said gun successively at Emiliano who was lying down. They remained where they were fearful of what would happen next. After the last shot was fired, Ceferino saw Appellant leaving the tent hurriedly by passing through the open portion of the tent on the western side. Recovering from their shock, Delfin and Ceferino ran to Monico Natura, the victim's father, and informed him of what they had just witnessed. The three of them, together with some others rushed to the tent and found Emiliano already dead, shot several times. Appellant was nowhere to be found. Since it was late in the evening and there was no means of

transportation to go to the authorities, Monico waited for morning before reporting the incident to the police.

In connection with the victim's death, Monico Natura testified that he incurred expenses for the coffin, tomb, embalming and funeral services totalling P8,000.00 plus additional expenses for food and drinks during the vigil and for the nine-day prayer amounting to P560.00, or, a grand total of P8,560.00. Emiliano had ten (10) children with his legal wife and three (3) children with his common-law-wife, Appellant's sister.

In his defense, Appellant testified that at around 10:00 o'clock in the evening of December 1, 1983, he and Emiliano Natura, his brother-in-law, were sleeping in one tent, lying side by side, their backs towards each other, with their heads towards the north. At about that time, a glare from the beam of a flashlight awakened him. The flashlight was first focused on him, then on Emiliano. It was held by somebody standing immediately behind two persons whom he later recognized as Patrolmen Ruben Pituc and Romeo Imus of the Villasis Police Force. He was unable to recognize the third man holding the flashlight. As the light rested on Emiliano, he saw Pat. Imus fire his gun at the latter. More shots were fired. He scrambled to his feet, dashed towards the opening of the tent on the western portion and ran in a zigzag direction away from the tent as shots were fired at him. He continued running until he reached the house of Pedro Sabado in Capulaan where he sought refuge. He narrated to Pedro Sabado what he had just witnessed and asked the latter to accompany him to Carmen in the morning as he was afraid that something might happen to him along the way to said place. On December 3, 1983, Appellant sought out Simeon Montero, Barangay Captain of Carmen East, and told him about what he saw on the night of December 1, 1983. After staying at a fishpond owned by Montero, Appellant went home. A week after the killing, Appellant went to the Villasis Municipal Hall to accompany his cousin in mailing a letter. There he saw and met Patrolmen Pituc and Imus, the men he claimed were the killers of Emiliano, but the two did not approach nor talk to him. Appellant claimed that he went to Manila because he was fearful of his life, staying there until January 25, 1984 when his wife came to inform him about a warrant of arrest issued against him. He returned home that same day, and the following day, Barangay Captain Montero accompanied him to the PC Detachment in Carmen. Later, he was turned over to the custody of the police at the Villasis Municipal Hall.

The witnesses presented by the defense, Barangay Captain Montero and Councilman Rabanzo, testified to the effect that Appellant went to them after the killing and narrated his version of the circumstances relating to the death of Emiliano Natura, specifically, that he saw Patrolmen Pituc and Imus shoot and kill the victim.

Unconvinced by the defense version, conviction was meted out by the Trial Court, hence, this appeal, with the following contentions:

I

THE LOWER COURT ERRED IN GIVING CREDIT TO THE TESTIMONIES OF THE PROSECUTION WITNESSES PEDRO DELFIN AND CEFERINO NATURA WHO WERE BIASED AND AFRAID TO TELL THE TRUTH.

II

THE LOWER COURT ERRED IN NOT GIVING CREDIT TO THE CANDID TESTIMONY OF THE ACCUSED BY POINTING TO RUBEN PITUC AND ROMEO IMUS, BOTH PATROLMEN OF THE INTEGRATED NATIONAL POLICE FORCE OF VILLASIS, PANGASINAN, AND A THIRD UNIDENTIFIED COMPANION WHO ACTUALLY SHOT EMILIANO NATURA TO DEATH.

III

THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED BASED ON REASONABLE DOUBT.

As stated at the outset, a careful perusal of the records of this case does not warrant a conclusion contrary to the Trial Court's findings. The errors raised by Appellant revolve around the issue of credibility of witnesses and of Appellant's own testimony, on which point it is well-settled that Appellate Courts will generally not disturb the factual findings of the Trial Court, as the latter is in a better position to decide the same, having heard the witnesses themselves and having observed their deportment and manner of testifying during the trial unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case (People vs. Olalia, Jr., L-50669, March 12, 1984, 128 SCRA 139).

Appellant was positively identified by the two prosecution witnesses, Pedro Delfin and Ceferino Natura, as the person whom they saw shoot the victim, Emiliano Natura. Pedro Delfin's testimony on this point was clear and straight-forward.

"COURT:

Q Why do you say that Juanito Sabado was the one who shot Emiliano Natura when according to you, you were sleeping in the hut?

A. I saw him shoot Emiliano Natura, sir.

Q But did you not say a while ago that 'they shot Emiliano Natura?'

A I said 'Pinaltoganna not 'da' meaning he shot, not they.

Q Where were you when according to you you saw the accused Juanito Sabado shoot the victim Emiliano Natura.

A. I was outside the tent, sir." (TSN, October 23, 1984, p. 21)

"COURT:

Q. Why did you say that it was Juanito Sabado who shot Emiliano Natura?

A. Because there was light, sir.

Q. Coming from where?

A.

Inside the tent, sir." (ibid., p. 22)

"COURT:

Q. How did you come to know that the accused in this case was the one who shot Emiliano Natura?

A At the first shot, we looked at the place where the gunshot came from and we saw Juanito Sabado shoot Emiliano Natura.

Q What was the accused doing when you saw him?

A. He again shot Emiliano Natura, sir." (ibid., pp. 23-24).

"Atty. Sison (on direct):

Q Do you know what kind of firearm was used by Juanito Sabado in shooting Emiliano Natura?

A I saw a short firearm, sir." (ibid., p. 24).

Ceferino Natura's testimony was just as forthright.

"Fiscal Guillermo (on direct):

Q. Between the hours of 10:00 to 10:30 in the evening of Dec. 1, 1983, while you and your three companions inside that tent were conversing, do you remember any unusual thing that happened?

A Yes sir.

Q.

What was that unusual thing that happened?

A. Juanita Sabado shot Emiliano Natura, sir.

Q. When Juanita Sabado shot Emiliano Natura, what was the position of Juanito Sabado?

A. Like this, sir.

"COURT:

Witness demonstrated a position of stooping a little with both hands as if holding something extending forward and downward.

"Fiscal Guillermo:

Q. That time, what if any, was Emiliano Natura doing when shot by Juanita Sabado?

A. He was lying down, sir." (TSN, February 25, 1985, pp. 74-75)

Q. How many times, if you know, did Juanito Sabado shot Emiliano Natura?

A. Successive shots, sir." (ibid., pp. 76-77).

Q. What about Juanito Sabado, what did he do after shooting Emiliano Natura successively?

A. He ran away, sir." (ibid., p. 77).

Thus, there can be no doubt regarding the positive identification of Appellant. Prosecution witnesses Delfin and Natura witnessed the actual shooting from a distance of only five (5) meters away from the tent where they were staying with Appellant and the victim, which tent was lighted in the inside by a kerosene lamp (TSN, October 23, 1984, p. 22 and February 25, 1985, p. 76).

Appellant, however, charges them of bias because one of them, Pedro Delfin, was a "compadre" of the victim while the other, Ceferino Natura, a younger brother. On this point, another basic principle comes to the fore, i.e., when there is no showing of improper motive on the part of the 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 credit. "On the contrary, their natural interest in securing the conviction of the guilty would deter them from implicating other persons other than the culprits, for otherwise, the latter would thereby gain immunity" (People vs. Alcantara, et al.

L-26867, June 30, 1970, 33 SCRA 812). Appellant did not present any proof of improper motive on the part of Pedro Delfin and Ceferino Natura in pointing to him as the perpetrator of the crime. In fact, he himself testified that there was no misunderstanding or bad blood between them on or before the commission of the crime on December 1, 1983 (TSN, July 24, 1985, p. 123). Absent any showing that said witnesses were actuated by improper motives, full faith and credit can be accorded their testimonies.

Against such positive identification, Appellant's negative assertion that he did not kill the victim cannot prevail. Thus, in *People vs. Canada* (L-63728, September 15, 1986, 144 SCRA 121), it was held greater weight given to the positive identification of the accused by the prosecution witnesses than to the accused's denial and explanation concerning the commission of the crime. Further, in *People vs. Chavez* (L-38603, September 30, 1982, 117 SCRA 221), it was ruled that the early identification of the accused by prosecution witnesses bespeaks of their spontaneity and veracity.

In his defense, Appellant claimed that Patrolmen Pituc and Imus of the Villasis Police Force shot the victim while he and the latter were sleeping in the tent. He said that he was afraid to report the incident immediately to the police since the persons who committed the crime were policemen (TSN, July 24, 1985, p. 120). Yet, Appellant himself admitted in open Court that a week after the killing, he went to the Villasis Municipal Hall to accompany his cousin in mailing a letter. There, he saw the two patrolmen (TSN, July 24, 1985, pp. 125-126). As observed by the Trial Court in its Decision (p. 34, Rollo), the Villasis Police Force is headquartered at the Municipal Hall where Appellant went. If the allegation of Appellant were true that these two policemen were the killers of Emiliano Natura and that he was afraid of them because he saw them shoot the victim, he would not venture to go to the Municipal Hall knowing that Patrolmen Pituc and Imus would most probably be there. Besides, if such were, indeed, the truth, Appellant should have reported that fact to the authorities specially considering that the victim was his brother-in-law, but he never did. Taking these into account, Appellant's credibility is unquestionably placed in serious doubt.

In furthering his bid to implicate the two policemen, Appellant relies on the testimony of the examining physician that as the points of exit of the gunshot wounds of the victim had different sizes, said wounds could have been inflicted by two assailants (TSN, September 14, 1984, p. 12). That was mentioned, however, as a mere possibility but the conclusion still was "since the difference is not too much, I'm considering that there was only one firearm used (ibid.). Besides, variations in shape of wounds of exit are normal depending on the trajectory of the bullet as it passes through the body.

Lastly, that the victim may have been a well-known trouble-maker is no reason to conclude that the policemen wanted to "salvage" him. As already explained, the defense story deserves no credence whatsoever in the light of more credible contrary evidence.

The crime committed was Murder, qualified by treachery. In order for treachery to exist, two conditions must concur namely: (1) the employment of means, methods or manner of execution which would ensure the offender's safety from any defense or retaliatory act on the part of the offended party; and (2) such means, method or manner of execution was deliberately or consciously chosen by the offender (*People vs. Estillo*, L-68459, March 4, 1986, 141 SCRA 456). Said requisites are present in the case at bar. As found by the Trial Court, the victim was shot while he was lying down (Decision, p. 4). Witness Pedro Delfin testified on this point as follows:

"COURT:

Q. What was Emiliano Natura doing then at the time when you said Juanita Sabado shot Him?

A. He was lying down, sir." (TSN, October 23, 1984, p. 23).

Ceferino Natura's testimony corroborates:

"Fiscal Guillermo (on direct):

Q. That time, what, if any, was Emiliano Natura doing when shot by Juanito Sabado?

A. He was lying down sir." (TSN, February 25, 1985, p. 74).

Since the victim was lying down when shot, he was completely unprepared for the attack; was unable to offer any resistance; nor make any move whatsoever in his defense. The attack was, therefore, carried out in a manner that precluded any risk or retaliation to Appellant that could have come from the victim. Treachery was undoubtedly present.

While the evidence calls for an affirmation of the judgment of conviction, the penalty however, must be modified.

Pursuant to Article 248 of the Revised Penal Code, the imposable penalty should be reclusion perpetua as imposed by the Trial Court. However, with the abolition of capital punishment in the 1987 Constitution, the penalty for murder is now reclusion temporal in its maximum period to reclusion perpetua. In the absence of any modifying circumstances, the penalty is imposable in its medium period, or from eighteen (18) years, eight (8) months and one (1) day to twenty (20) years.

For purposes of the Indeterminate Sentence Law, the range of the penalty next lower to that prescribed by the Revised Penal Code for the offense is prision mayor in its maximum period to reclusion temporal in its medium period, or, from ten (10) years and one (1) day to seventeen (17) years and four (4) months.

WHEREFORE, the judgment is AFFIRMED in all respects, except as to the principal penalty which is hereby modified to an indeterminate sentence of ten (10) years and one (1) day of prision mayor, as minimum, to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal, as maximum. Costs against the accused-appellant, Juanito Sabado.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Presided over by Judge Florante S. Abasolo.

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