

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BONIFACIO YAGONG, DEFENDANT-APPELLANT.

*G.R. No. 77088. January 29, 1990*

Ponente: GANCAYCO, J.

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### GANCAYCO, J.:

In an information that was filed by the Assistant Provincial Fiscal of Misamis Oriental in the Regional Trial Court of the same province, Bonifacio Yagong was charged with the crime of multiple parricide for having killed his wife and two minor children on June 21, 1983 with the aggravating circumstance of deliberately augmenting the wrong done not necessary to its commission by slashing the abdomen of his wife, Delia Yagong, cutting a two-inch portion of her liver and eating the same.

With the assistance of a counsel de oficio the accused entered a plea of not guilty after which the trial on the merits proceeded. On May 19, 1986 a decision was rendered by the trial court convicting the accused of the offense charged without any mitigating circumstance and imposing on him the supreme penalty of death and to indemnify the heirs of each of his victims the sum of P20,000.00 plus the costs. The counsel de oficio was granted an honorarium of P500.00.

The case was elevated on automatic review to this Court. With the assistance of a counsel de oficio the brief was filed in behalf of the accused while the Solicitor General filed the brief in behalf of the People. The case is nevertheless treated as one brought on ordinary appeal in view of the prohibition against the imposition of the death penalty found in Section 19(1), Article III of the 1987 Constitution.

The facts of this case as found by the court a quo are as follows:

"There appears no dispute as to the deaths of the victims, Delia, Rodelo and Marisa, all surnamed Yagong, whose injuries and causes of deaths were testified to by Dr. Narciso P. Eduarte, Municipal Health Officer of Kinoguitan, Misamis Oriental, who issued the corresponding Medical and Death Certificates therefor. (Exhs. "B", "C", "D", "E", "F", and "G"). The demise of the aforementioned victims is further buttressed by photographs of their remains, (Exhs. "J", "K", and "L") showing the bizarre nature of their wounds, indicating the degree of perversity the perpetrator thereof has sunk into, which were never denied by the defense.

Neither is there any controversy as to the alleged relationship of the victims with the accused, it clearly appearing that the accused Bonifacio Yagong and Delia Basio, one of the victims of the alleged crime, were married according to the rites and solemnities of the Roman Catholic church at Barangay Campo, Kinoguitan, Misamis Oriental on April 4, 1978, (Exh. "I") by the Reverend Filomeno Cabulosan, S.S.J.V., a Catholic priest, the other two victims being then their legitimate children.

There was not a single eye-witness to the alleged killings. The prosecution, however, presented two (2) witnesses who declared having, at around 5:00 o'clock in the morning of June 21, 1983, at Barangay Campo, Kinoguitan, Misamis Oriental, heard the accused Bonifacio Yagong, shouting, that he killed his wife and children.

One of said witnesses, Julian Basio, happened to be Yagong's own father-in-law, whose house is barely fifty (50) meters from the house of the accused at the same barangay. Not throwing caution to the wind, the discreet father-in-law, instead of going directly to the house of the accused, went to the house of Campo Barangay Captain Justino Micabalo, to whom he made a report of what he heard from the accused as aforesaid.

The other witness, Felix Budlao, whose house is likewise only fifty (50) meters from the house of the accused, on the other hand, rushed thereto in order to verify the truth of what Bonifacio Yagong had shouted about. Upon reaching Yagong's place, the witness said, he saw fresh blood splattered under Yagong's house. He then asked the accused what had happened, but that the latter merely told him to just proceed upstairs. Budlao testified that he was then about to go up Yagong's house but upon seeing the accused with a blooded curved bolo in his hand, he recoiled, and instead, proceeded to the houses of some of his neighbors, among whom were Barangay Councilor Generoso Quiroela, his own brother-in-law and others, and informed them of what he saw. Together, they returned to the house of Yagong which they then encircled. Moments thereafter, Julian Basio, Barangay Captain, Justino Micabalo and others arrived thereat. The Barangay Captain then told Bonifacio Yagong to come down and put down his bolo which the latter complied. Captain Micabalo then asked the accused what he did and the latter answered that he killed his wife and children.

The group then tied the hands of the accused together at his back and went up Yagong's house and there saw the lifeless bodies of his wife, Delia Basio Yagong and their two children, Rodelo and Marisa, bathed with their own blood on the floor of their house.

Captain Micabalo, Julian Basio, Felix Budlao, and some others then brought the accused Bonifacio Yagong to the Municipal Building of Kinoguitan where they turned him over to the Police.

Barangay Captain Justino Micabalo took the witness stand and corroborated the foregoing testimonies of the other prosecution witnesses in almost every detail.

The accused taking the stand in his own behalf, denied having killed his wife and two children. He testified that he was already up at 3:00 o'clock dawn of June 21, 1983, preparing to harvest camotes in his farm which is only sixty (60) meters from his house; that when he left his house at about 5:00 a.m. then, his two children were still asleep but his wife, Delia, then already awake and cooking, told him to come home early as she and the children would await him for breakfast.

The accused further declared that when he returned to his house after harvesting camotes and bananas, he found his wife, Delia and their two children Rodelo and Marisa, with wounds on their bodies, already dead; that he thereupon went to the municipal building of Kinoguitan and reported the matter to Patrolman Vicente Hallazgo of the Kinoguitan Integrated National Police Force, who did not allow him anymore to view the bodies or to attend the burial, of his wife and children, but that after the burial, he was however locked up in jail, although he insisted he did not go there to surrender.

No other witness was presented in behalf of the accused.

On rebuttal however, Patrolman Vicente P. Hallazgo, of the Kinoguitan Police Force, testified that he was the Police Investigator on duty at the Kinoguitan Municipal Building when the accused Bonifacio Yagong, with both his hands tied at his back, was brought there by the Barangay Captain of Campo and Patrolman Jose Abatay also of Kinoguitan, on charges of having killed his wife and two minor children. On cross-examination, Patrolman Hallazgo declared that his investigation disclosed among others, that the hands of Bonifacio Yagong were tied at his back because he was attempting to escape from his captors.

Nobody saw the accused Bonifacio Yagong actually kill his wife and two children. He was however distinctly heard in the quietness of the rural morning of June 21, 1983, from a distance of barely fifty (50) meters, by his own father-in-law, Julian Basio and by Felix Budlao, shouting to all and sundry, that he killed his own wife and two children. Yagong likewise admitted to the Captain of his own barrio of Campo, Justino Micabalo in

the presence of his countless neighbors that he killed his own wife and two children.

The accused was likewise seen right in the scene of the heinous crime in that tragic morning of June 21, 1983, with blooded bolo in hand by Felix Budlao, Julian Basio, Barangay Captain Micabalo and many others, which all suggest strongly, that he was the perpetrator thereof."[1]

In this appeal, the accused alleges the following errors committed by the trial court:

"ASSIGNMENT OF ERRORS

I — THE TRIAL COURT ERRED IN FINDING THAT WITNESSES JULIAN BASIO HEARD ACCUSED BONIFACIO YAGONG SHOUT THAT HE KILLED HIS WIFE AND CHILDREN.

II — THE TRIAL COURT ERRED IN FINDING THAT WITNESS FELIX BUDLAO RECOILED AND PROCEEDED TO HIS NEIGHBORS' HOUSES TO INFORM THEM (ABOUT) WHAT HE SAW.

III — THE TRIAL COURT ERRED IN FINDING THAT THE HOUSES OF JULIAN BASIO AND FELIX BUDLAO ARE 50 METERS TO ACCUSED YAGONG'S HOUSE.

IV — THE TRIAL COURT ERRED IN FINDING THAT THE BOLO WAS BLOODED.

V — THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED BY CIRCUMSTANTIAL EVIDENCE WHICH CIRCUMSTANCES ARE NOT IN SERIES OR IN COMBINATION AND WITHOUT MOTIVE."[2]

The appeal is devoid of merit.

The main thrust of the appeal is that the credibility of the witnesses for the prosecution is assailed. However, the appellant failed to demonstrate why this Court should depart from the cardinal principle that the findings of the trial court on the matter of credibility should not be disturbed on appeal due to its superior advantage in observing the conduct and demeanor of the witnesses while testifying unless some fact or circumstance may have been overlooked that may affect the result of the case.

While there is no eye-witness to the actual killing, immediately thereafter Julian Basio heard appellant shout that he killed his wife and children. So did Felix Budlao. The failure of the latter to inform his wife of this matter or his failure to go up the house of appellant after learning about the killing cannot thereby affect his credibility. The reaction or behaviour of persons when confronted with a shocking incident varies.[3] In fact his explanation is that he was afraid.

The alleged inconsistencies in the testimony of these witnesses are on minor matters. Rather than affect their credibility such inconsistencies are in fact badges of candor and truthfulness.

Appellant points out that since Basio and Budlao lived only about 15 to 30 meters away from his house they should have heard the commotion. Hence, he contends that their allegation to the effect that they heard him shout is not credible. The swiftness of the killing as described in the information must have muted any groans of pain from the victims.

Appellant pleads insanity. There seems to be some basis for this. The motive was established to be intense jealousy. He mercilessly killed his wife and children early in the morning. Then he cut a two-inch portion of the liver of his wife and ate it. Thereafter, realizing the immensity of the heinous crime he committed he shouted to all and sundry that he killed his wife and children. He was seen and apprehended still holding the blooded scythe he used. He was mumbling with remorse when investigated and brought before the judge. These are indications of a man out of his mind.

Unfortunately, it is much too late to raise the defense of insanity on appeal. It is not even seriously put into issue by the appellant in his brief. He just said that perhaps he was insane. The rule is that the burden of proof of such insanity is on the defense.<sup>[4]</sup> No evidence to this effect was adduced. Instead the appellant interposed the defense of alibi alleging that he went to his farm at the time of the commission of the offense and found his wife and children dead upon his return. He conveniently left allegedly soon before the time they were killed and went to his farm only sixty meters away. To say the least, this is simply incredible. Indeed, assuming his story to be true it is not impossible for him to have returned home, committed the offense and returned to the farm thereafter. Indeed, this alibi instead of bolstering his defense demolishes his alternative proposition of possible insanity. He appears to remember vividly where he allegedly was at the time of the carnage in a desire to clear himself.

The court agrees with the finding of the trial court that the circumstantial evidence lead to no other conclusion than that the appellant is guilty of the offense charged. The Solicitor General aptly summarized the circumstances as follows:

"1) Appellant shouted at the top of his voice that he had killed his wife and his children (tsn, p. 11, March 16, 1984);

2) He was seen at the scene of the crime holding a bloodstained scythe by his father-in-law and Felix Budlao when the two rushed to his house to find out what had happened (tsn, p. 12, *ibid*; p. 6, June 27, 1984);

3) Appellant turned himself in to barangay captain Faustino Micabalo after the latter was able to convince the former that nothing would happen to him should he surrender (tsn, p. 17, May 23, 1984);

4) Appellant admitted to the barangay captain, while on their way to the police station, that he killed his wife because of jealousy (tsn, p. 19, *ibid*.);

5) The conduct of the appellant, as observed by Judge Ramon R. Legaspi, Jr. before whom the appellant's sworn statement was subscribed, evidenced his guilt.

In his testimony, Judge Legaspi, Jr. made the following observations —

Q

—

In your observation during that time that the accused was in your office, was there anything unusual behavior (sic) that would show that he was not in a normal mind?

A

—

He appeared very depressed. His depression is very pronounced, perhaps because of lack of sleep. He was tired already. The incident occurred just recently.

Q

—

About the manner?

A

—

My question is very short. Could be answered by yes or no. He immediately answered all the questions.

Q

—

He did not complain to you of any being apprised (sic) on him in the execution of the affidavit?

A

—

No, he did not complain. The accused was very remorseful. There were times when he would say, he would suffer the consequences of his acts (tsn, p. 9, March 16, 1984);

Such contrite attitude of the appellant arose out of a sense of guilt.

6) Appellant was indifferent and was unperturbed by the fate suffered by the victims. It is not disputed that appellant did not even attend the burial of his wife and his two (2) children. Fear of reprisals from other relatives of the victims must have cautioned him from attending the burial of the victims. The guilty fleeth, even when no one pursueth; the righteous are as bold as a lion;

7) There was motive; the strained relationship between appellant and his wife. This was brought about by the drinking habit of the appellant who used to threaten and maul his wife everytime he got drunk. It was appellant's own father-in-law, as neighbor, who attested to appellant's brutality towards his wife (tsn, p. 11, June 27, 1984). This was corroborated by Felix Budlao, a neighbor of the appellant (tsn, p. 16, March 16, 1984)".[5]

The penalty that should be imposed on the appellant should be reclusion perpetua in view of the constitutional prohibition against imposing the supreme penalty. The indemnity to the heirs of the victim should be increased to P30,000.00 for each victim.

WHEREFORE, with the above modification as to the penalty and indemnity, the decision appealed from is affirmed in all other respects with costs against defendant-appellant.

**SO ORDERED.**

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

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[1] Pages 15-17, Rollo.

[2] Page 32, Rollo; page 4, Appellant's Brief.

[3] People vs. Radamos, 141 SCRA 548 (1986).

[4] People vs. Aldemita, 145 SCRA 451 (1986).

[5] Pages 14-17, Appellee's Brief; page 37, Rollo.

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