

LEOPOLDO SIRIBAN, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 77111. June 28, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

From the decision of the respondent, the Court of Appeals,[1] affirming that of the Regional Trial Court of Cagayan,[2] the petitioner-accused, a carpenter and a resident of Aparri, Cagayan, appeals to this Court. From the records, it appears that:

x x x

x x x

x x x

x x x [a]t about 5 to 8:30 p.m. on September 25, 1981 Leopoldo Siriban, the herein accused, Ciriaco Kalata the herein (sic) deceased, Cesar Frayalde, Porfirio Abbatuan, Ismael Abbatuan and Francisco Martinez were drinking beer at the Gumarang Canteen in the premises of the public market in Aparri, Cagayan.

After the drinking, all except Francisco Martinez rode on the same tricycle bound for Tallungan, Aparri. Francisco Martinez followed them on his bicycle. Inside the tricycle, there was a discussion between appellant and the deceased about their pay for their construction work (repair of school building in Lasam, Cagayan). When the tricycle stopped in front of the house of one Tony Villena, which was about one hundred (100) meters away from the house of appellant, appellant alighted from the tricycle but he was followed by the deceased who immediately boxed appellant. The two then had a fist fight, grappled with each other and even fell down. Ismael Abbatuan tried to pacify them but they moved forty (40) meters away and continued boxing each other.

Francisco Martinez passed by and saw that appellant was being held by Rodolfo Laddaran. He also heard appellant, while extricating himself from the hold of Rodolfo Laddaran, utter the following words:

"Let me free and I am going to retaliate what they have done in boxing me." Soon after, Francisco Martinez was informed by his father-in-law that the deceased had been wounded. When he went to the place where appellant and the deceased had earlier fought he found the deceased lying down. Martinez asked the deceased as to who injured him but the latter could no longer talk. With the help of the son of Juan Cabusi, Martinez brought the deceased to the hospital but he died on the way.

Dr. Romulo Rivera, municipal health officer of Aparri, conducted the post-mortem examination on the body of the deceased on September 26, 1981 at around 8:25 a.m. In his report (Exhibit "A"), he certified that the deceased died due to stab wounds and shock secondary to hemorrhage. There were two stab wounds-one caused by a single bladed instrument and another by a double-bladed instrument.

The deceased's relatives spent P2,425.00 as actual expenses for the wake and funeral of the deceased.

The version of the appellant is that at about five o'clock in the afternoon of September 25, 1981 after rendering carpentry work on a school building at Maura, Aparri, Cagayan, victim Ciriaco Kalata, accused Leopoldo Siriban, Porfirio Abbatuan, Ismael Abbatuan, Francisco Martinez and Cesar Frayalde went to the Gumarang Store at Centro, Aparri, Cagayan and drank beer. After they finished drinking at about eight thirty o'clock in the evening, Ciriaco Kalata, Leopoldo Siriban, Porfirio Abbatuan, Ismael Abbatuan and Cesar Frayalde rode in one tricycle to go home at Tallungan, Aparri, Cagayan. Francisco Martinez rode on a bicycle. While on board the tricycle, Leopoldo Siriban and Porfirio Abbatuan entered into a discussion about their pay in their carpentry work. When the tricycle reached their boarding house at Tallungan and Leopoldo Siriban was about to get out from said tricycle, Ciriaco Kalata boxed him. Leopoldo Siriban fell down beside the tricycle still holding the meat which he bought. Ismael Abbatuan helped him to get up. He did not retaliate. Francisco Martinez assisted Leopoldo Siriban in going away from the tricycle and delivered him to Rodolfo Laddaran. Ciriaco Kalata was left in the tricycle shouting "get out, I am not afraid to anybody here." Rodolfo Laddaran brought home Leopoldo Siriban and the latter went to sleep. When Leopoldo Siriban went away from the tricycle, Porfirio Abbatuan, Ismael Abbatuan, Cesar Frayalde, Francisco Martinez and some other persons were near that tricycle. On the next day, Leopoldo

Siriban was called by the police and he was investigated (Testimony of Leopoldo Siriban, TSN, Oct. 8, 1984, pp. 3-21).

At around eight thirty o'clock in the evening, September 25, 1981, while Rodolfo Laddaran was taking a walk at Tallungan, Aparri, Cagayan, he met Francisco Martinez and Leopoldo Siriban. Francisco Martinez told Rodolfo Laddaran that Leopoldo Siriban was boxed by Ako (Ciriaco Kalata) on his face and the face was bleeding. Francisco Martinez requested Rodolfo Laddaran conducted Leopoldo Siriban home (sic) and the former left when the latter was already sleeping. Leopoldo Siriban was not armed at the time he was met by Rodolfo Laddaran (Testimony of Rodolfo Laddaran, TSN, Nov. 19, 1984, pp. 3-6).

The sister of Leopoldo Siriban, Trinidad Tumamao heard a noise at the rice paddies while she was washing kitchen utensils in her house at about 9:00 o'clock in the evening, September 25, 1981 and when she went down, she saw Leopoldo Siriban and Rodolfo Laddaran coming. She asked Leopoldo Siriban what happened and the latter told her that he was boxed on his lips by Ciriaco Kalata. Trinidad and her aunt treated the injury of Leopoldo Siriban and while treating it, Leopoldo Siriban fell asleep and he no longer left the house that evening.[3]

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X X X

X X X

Upon these facts, the trial court returned a guilty verdict, disposing as follows:

WHEREFORE, in the honest opinion of the Court based on its factual findings reinforced by the natural sequence of facts, the common experience, observation and knowledge of mankind (Caslanores vs. CA, 92 SCRA 167), we hold that accused is guilty beyond reasonable doubt of the crime of Homicide. He is heretofore sentenced to an indeterminate sentence of EIGHT (8) YEARS, ONE (1) DAY of prision mayor as minimum and FOURTEEN (14) YEARS EIGHT (8) MONTHS, ONE (1) DAY of Reclusion Temporal (Art. 64, par. 1, p. 765, RPC 1977, Ed. Reyes, People vs. Satorre, G.R. No. L-26282, November 29, 1976). He is likewise ordered to pay the heirs of Ciriaco Kalata the amount of TWO THOUSAND FOUR HUNDRED TWENTY FIVE (P2,425.00) PESOS, as actual damages and THIRTY THOUSAND (P30,000.00) PESOS as indemnity. The docket fee constitutes a lien

on the judgment award in pursuant to the provision of Sec. 1, par. 2, Rule 111, New Criminal Procedure. The bailbond posted for the provisional liberty of the accused is ordered cancelled.

SO ORDERED.[4]

a verdict the public respondent, the Court of Appeals, affirmed in toto.

There is no direct evidence positively pointing to the petitioner-accused as the killer other than what is largely circumstantial evidence. "What is clear in the record," states the respondent Court, "is that both the appellant and the deceased had a fist fight." [5] "Several persons among whom were Porfirio Abbatuan, Cesar Frayalde and Rodolfo Laddaran tried to pacify them." [6] "According to Francisco Martinez he heard the appellee [sic] shouting while being held by Rodolfo Laddaran, 'release me and I will retaliate.'" [7] "Francisco Martinez," according to the Appellate Court, "likewise testified that he found the deceased lying on the ground about 40 meters from the place of [sic] where the deceased and the appellant had a fight." [8]

The trial court adds, among other things, that:

- There were no other persons in place of incident except the deceased, accused, Ismael Abbatuan, Porfirio Abbatuan, Cesar Frayalde and Leopoldo Laddaran;

- When Francisco Ramirez arrived at the place of incident, he met Leopoldo Siriban and Leopoldo Laddaran coming from the direction of the place where the body of deceased was found. Immediately, thereafter his father-in-law told him that Ciriaco Calata was injured. He found him dead; [9]

It should be noted that not one of the petitioner-accused's fellow carpenters testified having seen him in the actual act of inflicting the fatal wounds upon the deceased. In the opinion of the trial court, however, their silence "was a concerted scheme to cover up [for] the crime committed." [10]

The crime weapon moreover was never recovered, much less was it found in the petitioner-accused's possession. The Court of Appeals, however, surmised that "the deceased was a carpenter and in all probability the tools were with him at the time." [11] meaning to say that the deceased himself might have furnished the weapon for his own death.

The Court of Appeals rejected the petitioner-accused's defense of alibi in the face of alleged "positive identification." [12]

We acquit the petitioner-accused. We do not find the evidence sufficient for conviction. We are not satisfied, beyond reasonable doubt, that he is guilty as charged.

To start with, the petitioner-accused has not been positively identified. Secondly, and equally significant, it is not improbable that some other person might have committed the offense.

What eludes the respondent court is the fact that, as found by the trial court, "[w]hen Francisco Ramirez arrived at the place of incident, he met Leopoldo Siriban and Leopoldo Laddaran coming from the direction of the place where the body of deceased was found." [13] In other words, either Siriban (the petitioner-accused) or Laddaran could have been the culprit.

That the petitioner-accused had a motive to take the life of the deceased is not conclusive either. The fact alone that the petitioner had engaged the deceased in fisticuffs prior to the killing does not monopolize all motive in him. As the trial court found, there appeared to be a concerted scheme to cover up [for] the crime committed," [14] arising from Ismael Abbatuan's and Laddaran's failure to pinpoint the petitioner as the malefactor at the witness

stand. If this is the case, Abbatuan and Laddaran themselves had some motive against the deceased.

What the Court is impressing is the fact that the parties appear to have been inspired by some gung ho sentiment and it is not implausible that all of them begrudged the failure of the deceased to release their pay for the day's work.[15] The Court is of the view, then, that any one of them had a good reason to make the deceased "pay for it," especially Laddaran who was last seen with the petitioner-accused.

In other words, we cannot single out the petitioner simply because it was he who actually engaged the victim in a boxing contest when his co-workers themselves could have had similar designs to do the same thing, Laddaran in particular, who was present in the scene of the incident.

The probability that it might have been the deceased himself who provided the weapon for his own killing, is plain probability. Suffice it to state that a case rises or falls on the basis of the facts before the court, and the provisions of law pertinent thereto, but never on probabilities. Time and again we have overturned the Appellate Court, whose findings of fact are generally controlling on the Court, on the ground that those findings are based on speculations and baseless inference.[16] We find the occasion fitting to invoke the exception herein.

Indeed, except for the bare circumstance that the petitioner-accused had a violent quarrel with the victim, the prosecution could adduce no other incriminating evidence against him. Parenthetically, this is a reflection on the investigative capabilities of the authorities, but the petitioner is hardly blameworthy for police shortcomings.

It is well-established that "[c]ircumstantial evidence is sufficient for conviction,"[17] but such a kind of evidence must be conditioned upon the concurrence of the following:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt."[18]

In the case at bar, the prosecution has relied on a solitary occurrence: the fact that the petitioner had earlier had a scuffle with the deceased. This is not only in violation of the aforequoted rule, but as we held, it is not even enough to indicate the commission of a homicide or any overt act of one, much less to convict the petitioner thereof.

Secondly, to say that the petitioner-accused must have attacked the deceased with his (the deceased's) own tools on account of the fact that he was a carpenter "and in all probability his tools were with him at the time"[19] is to draw an inference from what is by itself an inference: that the petitioner had a motive to kill him. According to the rule, however, judicial inference must be based on facts and hence, it cannot be based on another inference. As Moran puts it, to draw an inference from an inference is to enter "upon a sea of inferences with no rudder or compass to control the direction." [20]

The fact that the petitioner could offer no "acceptable" defense other than alibi, a weak defense generally, does not overturn his presumed innocence. For the rule is that the prosecution must rely on the strength of its evidence rather than the infirmity of the accused's own.[201]

WHEREFORE, on the ground of reasonable doubt, the decision of the respondent, the Court of Appeals, is REVERSED and SET ASIDE, and the petitioner ACQUITTED of the crime charged.

No pronouncement as to costs.

Yap, C. J. (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Fifth Division, Coquia, Jorge, J.: Ejercito, Bienvenido and Martinez, Antonio, JJ., Concurring.

[2] Branch IX, Aparri. Cagayan; Bala, Jr., Dionisio. Presiding Judge.

[3] Rollo, 28-30.

[4] Id., 26-27.

[5] Id., 31.

[6] Id.

[7] Id.

[8] Id.

[9] Id., 20.4.

[10] Id., 21.

[11] Id., 31.

[12] Id., 32.

[13] Id., 20.

[14] Id., p. 21

[15] See id., 17-18.

[16] See e.g. Teodoro v. Court of Appeals. G.R. No. L-31471. November 12, 1987

[17] RULES OF COURT, Rule 132, Sec. 5.

[18] Supra.

[19] Rollo, id., 31.

[20] 6 MORAN, COMMENTS ON THE RULES OF COURT 164 (1980).

[21] People v. Saavedra, No. L-48738. May 18. 1987.

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