

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO ROA Y ESLIT, ACCUSED-APPELLANT.

G.R. No. 78052. November 08, 1988

Ponente: PARAS, J.

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PARAS, J.:

Appellant Rolando Roa was charged with the crime of Murder under Article 248 of the Revised Penal Code in an Information which averred:

"That on or about the 29th day of December, 1984, in the municipality of Guiguinto, province of Bulacan, Philip-pines, and within the jurisdiction of this Honorable Court, the abovenamed accused together with Francisco Malatag alias Frank, who is still at large, arm-ed with a bladed weapon and with intent to kill one Atty. Roberto Tanjangco y Suntay, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery and with abuse of superior strength, attack, assault and stab the said Atty. Roberto Tanjangco y Suntay, causing fatal injuries which directly caused the death of the said Atty. Roberto Tanjangco y Suntay.

"Contrary to law.

"Malolos, Bulacan, February 11, 1985." (p. 1, Decision; p. 34, Rollo)

Upon arraignment on March 4, 1985, accused-appellant pleaded "Not Guilty" but the trial court convicted him in a decision, the decretal portion of which reads:

"WHEREFORE, the Court finds the accused Rolando Roa guilty beyond reasonable doubt of the crime of MURDER defined and penalized under the provisions of Art. 248 of the Revised Penal Code and hereby sentences him to Reclusion Perpetua and to indemnify the heirs of the deceased in the amount of P30,000.00 as damages for the death of the victim and P20,000.00 for moral damages." (p. 91, Rollo)

During trial, the prosecution presented sixteen (16) witnesses whose testimonies established the following facts:

"Roberto Tanjangco was a lawyer and businessman who resided in Ermita, Manila. He was operating and managing a family-owned sixty-hectare fishpond in Hagonoy, Bulacan. Every Saturday, he would go to the fishpond to pay the workers.

"On the evening of December 28, 1984, Tanjangco's sister Teresita Cua, an account-ant who served as the family treasurer, gave him the amount of P14,000.00 repre-senting the salaries of the fishpond workers and including miscellaneous expenses incident to the operation of the fishpond. (pp. 17--24, 33 Cua, July 1985).

"The following day, December 29, 1984, at about 10:00 o'clock in the morning, Atty. Tanjangco got ready to leave for Hagonoy. Carrying a snackbag and a brief-case, he boarded his maroon Celeste car.

"The car was not quite out of the yard yet when a househelp, Roberta Perez, saw the gray-shirted accused stop the car. The accused is known to the household, having worked with the family since 1981, doing odd jobs and in fact had gone with Atty. Tanjangco to Hagonoy for three Saturdays prior to the Saturday when the murder

occurred. (pp. 24-25, 27, TSN Cua, and pp. 8-9, TSN Perez, 8 July 1985). Accused talked with Atty. Tanjangco thru the half-opened window. Then Atty. Tanjangco opened the door of the car and a companion of the accused appeared from the wall fence and boarded the car followed by the accused. There were thus a total of three (3) occupants in the car. (pp. 5-9, TSN, Perez, 8 July 1985).

"On that same morning at around 10:00 of December 29, 1984, a dump truck owned by the Philippine National Construction Corp-ration (PNCC), Garbage Disposal Unit, was parked on the southbound land somewhere in Barangay Tabe, Guiguinto, Bulacan. Inside was the driver Pablo Gonzalez and the lead man Arthur who were riding in front and riding at the back were three casuals Magno, Mang Pol and Lucio who were assigned to haul garbage and cut grasses along the North Expressway. (TSN, June 10, 1985, pp. 4-6; August 12, 1-85, pp. 22-26). Gonzalez noticed a red car in the opposite lane slowly running northward. The three occupants of the car appeared to be in a skirmish ("nagsusuntukan"). (TSN, June 10, 1985, pp. 6-8). Suddenly the door of the car on the driver's side opened, and a man (Atty. Tanjangco) with blood on his face and arms, alighted, slumped (napaupo) on the ground, immediately got up and crossed the expressway towards the truck. Magno saw him waving to motorists going toward Manila about ten (10) meters behind the dump truck (TSN, Aug. 12, 1985, p. 32). The other two persons in the car also alighted from the opposite door and followed after the wounded man. (Id., pp. 8-10, TSN, Aug. 12, 1985, pp. 17-19). One of the men wore bright blue pants and a gray shirt (TSN, June 10, 1985, p. 18). Magno identified one of the men as the accused (TSN, Aug. 12, 1985, p. 20). When the two men saw the five-man strong dump-truck team, they returned to the red car and drove it. But after running for only about 400 meters northward, the car stopped and the two men jumped out of the car, hurriedly crossed the southlane of the expressway, and looked for an exit in the perimeter fence. Finding one near a store, they escaped through it.

"After seeing his pursuers return to the car, the victim went back to the northlane of the expressway, and, standing in the middle of the road, stretched and waved his hands trying to stop on-coming vehicles. No vehicle stopped. The victim then slumped in the middle of the road. Gonzalez called to the bloodied person to ride with them ("tara po") but he just stared at them. (pp. 10-15, TSN Gonzalez, 10 June 1985).

"After about five minutes, a PNCC mobile patrol car arrived from the direction of Ta-bang, made a U-turn crossing the island and drove near the victim. The victim was in a squatting position with the left hand on the ground and the right hand raised for help. The mobile patrol crew and two from the dump truck helped the bloodied person board the patrol car (Id. p. 16, TSN August 13, 1985, pp. 31-35; TSN, Sept. 9, 1985, p. 10). The dump truck crew guarded the red car until they were relieved by the PNCC patrol unit about an hour later (Id. p. 19).

"When Julio Camua, a member of the PNCC mobile patrol crew, asked the victim who attacked him the victim responded 'Kasama ko, kasama ko' (my companion). He was then rushed to the Bulacan Provincial Hospital but he died after arrival. (p. 12, TSN Camua, 9 Sept. 1985).

"Pat. Tomas Saquido of the Guiguinto Police Force was fetched by the PNCC to conduct an investigation. He recovered, inside the car, the handle of a knife with broken blade, a scabbard, a gray T-shirt with blood stains, and an attache case with P13,200 inside. After the posecution and defense had rested their case, a double-bladed instrument was presented as newly discovered evidence. It was found on Sept. 26, 1986 by car repair shop helper Virgilio Niegas while cleaning the car for repainting, inserted between the rug and the flooring of the car. This blade was fitted to the metal attached to the handle that was recovered earlier inside the car and the prosecution observed that the two fitted perfectly. (TSN, October 10, 1986 Cua, p. 3).

"The autopsy conducted by NBI Medical Specialist Dr. Prospero Cabanayon revealed that the victim sustained two (2) stab wounds: (1) at the back, right side suprascapular region with a depth of 16 centimeters, with entrance wound of 1.1 centimeters, perforating the left lung upper lobe and the heart (fatal), and (2) on the left arm which is described as a 'defense' wound (pp. 8-14, TSN Cabanayon, 13 August 1985). Carolyn Custodio, Supervising Biologist at the NBI, who examined the gray T-shirt, a scabbard and a knife handle found by the

police in the abandoned Celeste car (pp. 9-14, TSN Saquido, 9 September 1985) testified that she found type "A" blood on all three items, coinciding with the blood-type of the victim (pp. 5-10, TSN Custodio, 12 August 1985)." (pp. 3-8, Brief for the Appellee; pp. 92-97, Rollo)

On the other hand, defense presented the testimonies of the accused-appellant and his brother Antonio Roa. Accused-appellant denied the crime imputed to him and averred that he was tortured by the police authorities in order to force him to confess to the killing of the victim, Atty. Roberto Tanjangco. The defense tried to establish that the accused-appellant was in Pampanga on December 29, 1984 filling up the dike in the fishpond of Ernesto Marcelo where he was employed from December, 1984 to January, 1985.

As a rebuttal witness, the prosecution presented the accountant of Erma Industries, Inc., who testified that Rolando Roa worked on Marcelo's fishpond only for two days on January 3 and 4, 1985 and he has no previous record with the company.

After considering all the evidence, the trial court rendered its decision,[*] the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds the accused Rolando Roa guilty beyond reason-able doubt of the crime of MURDER defined and penalized under the provisions of Art. 248 of the Revised Penal Code and hereby sentenced him to Reclusion Perpetua and to indemnify the heirs of the deceased in the amount of P30,000.00 as damages for the death of the victim and P20,000.00 for moral damages.

"SO ORDERED. (p. 11, Decision; p. 44, Rollo).

On appeal to Us accused-appellant asserts that the trial court erred -

(i)

in finding the accused Rolando Roa guilty beyond reasonable doubt of the crime of murder when the prosecution failed to present any witness to prove that the accused stabbed Atty. Roberto Tanjangco.

(ii)

in finding the accused guilty beyond reasonable doubt of the crime of murder when the supposed identification of the accused refers only to that made by the follow-ing-

(a)

witness Magno de Jesus who identified the accused as one of those running after the victim.

(b)

witness Roberta Perez who iden-tified the accused and a companion as having boarded Atty. Tanjangco's car prior to the murder.

(iii)

in finding the accused guilty beyond reasonable doubt of murder when the prosecution was not able to prove motive; besides conspiracy as a fact was not proven.

(iv)

in convicting the accused of murder and not homicide, assuming arguendo (but vigorously denying) that he was the assailant. (pp. 2-3, Brief for the Appellee; pp. 91-92, Rollo)

The appeal deserves no consideration.

In the first assigned error, appellant maintains that guilt was not proved beyond reasonable doubt because no witness to the stabbing was presented.

Appellant is mistaken.

Direct evidence of the actual stabbing is not necessary when circumstantial evidence is sufficiently established as in the case at bar. A resort to circumstantial evidence is in the very nature of things, a necessity. Crimes are usually committed in secret and under conditions where concealment is highly probable; and to require direct testimony would in many cases result in freeing criminals and would deny proper protection to society (20 Am. Jur. 261).

The prosecution presented several witnesses testifying on the various circumstances of the case to prove that it was the accused who murdered the victim. The maid Roberta Perez positively identified the accused as the one who boarded the victim's car (pp. 5-8, TSN Perez, July 8, 1985), and after the stabbing occurred, Magno de Jesus who from his vantage point on board the rear end of the dump truck, had a clear view of the accused in his tell-tale pursuit of the fatally-wounded Atty. Tanjanco. (pp. 25-27, TSN de Jesus, August 12, 1985). Furthermore, the victim's response of "kasama ko, kasama ko" to the query of who wounded him is appropriate and logical under the circumstances. The victim was stabbed by his companions inside his car which was driven away by them. With this as background, the victim's response to the question coming from a stranger as to who stabbed him, significantly confirms what just transpired. The victim who was fast losing strength obviously wanted to identify his two assailants, as those in his car, apparently for a quick pursuit, by describing them as "kasama ko" instead of naming his assailant as "Rolando Roa." Those were his last words before he lost consciousness and died. These circumstantial facts satisfy the elements that would make circumstantial evidence sufficient for conviction, to wit: (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 reasonable doubt (Sec. 5, Rule 133, Revised Rules of Court).

In discrediting the testimony of Roberta Perez, the defense avers that this witness was influenced by the victim's family to testify against the accused. Such averment, is purely conjectural as it was not sufficiently proven. Furthermore, appellant's claim that at best Perez's testimony merely proves that accused was but a passenger of the victim loses sight of the fact that the witness' testimony is not intended to narrate the actual stabbing, but to prove and establish one essential circumstance among many others, which taken together would inevitably point to the guilt of the accused.

Appellant also discredits the testimony of Magno de Jesus, witness for the prosecution, one of the five men in the dump truck who positively identified the accused as one of the two men pursuing the bloodied victim. Appellant argues that the testimony of this witness is at variance with the testimony of another witness Pablo Gonzalez, driver of the truck. Appellant notes that while de Jesus testified that the victim returned to the place where the car was formerly park-ed, witness Gonzalez testified that the victim reached only the middle of the expressway. Such contention holds no water. The testimony of de Jesus that the victim "returned to the place where the car was first parked" must be viewed in the context of his narration that the victim crossed the expressway and stayed about ten (10) meters behind the dump truck waving at passing motorists on the southbound lane but he later "returned to the place where the car was parked" merely to empha-size that the victim left the southbound lane. On

cross-examination, it was revealed that the victim was no longer ten (10) meters behind the truck when the patrol car arrived since he returned to the place where the car was formerly parked (p. 32, TSN Aug. 13, 1985).

The statement of Gonzalez on the other hand that the victim stayed in the middle of the expressway was in response to a clarificatory question directed at him asking whether the victim was able to reach the edge of the road. This question was posed after Gonzalez' statement that the "same bloodied person ran and crossed the expressway towards the place where the car was." (Rollo, 102) Relevant to this is the observation of the defense assailing the fact that Pablo Gonzalez, driver of the truck could not even identify the pursuers of the victim. But this is understandable because Gonzalez was inside the truck in the driver's seat and therefore facing southward while Magno de Jesus was at the back of the dump truck and therefore had a nearer, clearer and more direct view of what was happening.

Appellant also assails the testimony of de Jesus that the two pursuers both alighted from the right side of the car which differs from that of Gonzalez who testified that the two alighted from opposite doors. Appellant is mistaken. A perusal of the transcript of stenographic notes shows that Gonzalez did not answer that "the two alighted from the opposite doors". (Rollo, 102) His answer was: "No, your Honor, opposite door" (p. 10, TSN, June 10, 1985) to the question whether the two alighted from "the same door of the car". This question was asked during Gonzalez narration that as soon as the driver's door was opened, the victim alighted and the two persons also alighted.

Likewise, appellant discredits de Jesus' earlier testimony that he did not alight from the truck prior to the arrival of the patrol car as inconsistent with his later testimony that four minutes before the patrol car arrived, he had already alighted. There is no inconsistency. When witness was asked on cross-examination as to what he did when the victim alighted from the car and ran towards the dump truck, he made the statement that he did not alight from the dump truck to help the victim before the arrival of the mobile patrol. His alighting from the dump truck was nearer in time to the arrival of the mobile patrol and not during the time the victim was waving for help. Hence in his mind, his alighting from the dump truck had more to do with the arrival of the mobile patrol than the time the victim was waving across the expressway seeking help.

The inconsistencies and contradictions that appellant speaks of are only minor and inconsequential details which do not affect their credibility; they are fail-safes against memorized perjury, and serve to strengthen the sincerity of a witness's testimony.

We now come to appellant's third assignment of error, whereby appellant asserts that neither motive, nor conspiracy was proven. Again, such contention does not merit Our consideration.

Appellant was an employee of the victim for about six months in his fishpond at Hagonoy, Bulacan, and on three consecutive Saturdays prior to the Saturday of the murder, appellant had been a regular companion of the victim, hence appellant was not unaware of the amount of money entailed in the operation of the fishpond, and the amount of cash the victim took with him on his Saturday trip to the fishpond to pay the workers' salaries. Appellant succeeded in hitching a ride with the victim on the strength of the trust reposed on him by the latter, there being no known previous misunderstanding between the victim and the accused. That there was a previous plan to kill the victim is shown by the fact that appellant and companion brought along with them an improvised knife (to be used in killing the victim) and clothes (to change their bloodstained shirts after the killing in order not to arouse any public suspicion). It is evident that the appellant and his companion wanted to finish what they had started by running after the wounded victim but they were thwarted in their attempt due to the presence of the garbage collectors of the dump truck who witnessed their evil deeds. It is also for this same reason that the robbery was not consummated aside from the fact that the car of the victim which they attempted to use as the

getaway car, malfunctioned and would not run.

In his last assigned error, appellant discounts the presence of treachery and submits arguing that were he the assailant, only a conviction of homicide and not murder may be imposed on him. Appellant's contention is untenable.

It is already established that appellant was able to board the car of the victim by virtue of the trust reposed on him by the latter. The victim, who was driving the car with his hands on the steering wheel, was totally helpless to the sudden, unexpected and treacherous attack of the accused. He was in no position to defend himself. The one stab wound at his back was delivered with such force as to insure the death of the victim. The incident of the scuffle ("nagsusuntukan") which appellant would now use to illustrate that there was no treachery, was the struggle that the victim put up in an effort to spare himself from any more vicious attacks by the accused. Thus, the wound in his arm.

WHEREFORE, premises considered, the guilt of the appellant has been proved beyond reasonable doubt. The appealed decision is hereby **AFFIRMED** with the modification that considering the Indeterminate Sentence Law, his imprisonment is hereby reduced to an indeterminate term of ten (10) years and one (1) day of prison mayor as minimum to eighteen (18) years, eight (8) months and one (1) day of reclusion temporal as maximum. Costs against appellant.

SO ORDERED.

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

[*] Penned by Judge Camilo O. Montesa, Jr.

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