

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAFFY CAYAAN, ROBERT MIRANDA, AND CAMILO MIRANDA, DEFENDANTS.
ROBERT MIRANDA, DEFENDANT-APPELLANT.**

G.R. NO. 78900. March 21, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal interposed by the accused Robert Miranda from the judgment* of the Regional Trial Court at San Carlos City (Pangasinan) in Criminal Case. No. SCC-849, finding him and his co-accused, Raffy Cayaan, guilty of the crime of Murder and sentencing them to suffer the penalty of reclusion perpetua and indemnify, jointly and severally, the heirs of the deceased Rogelio Manzon in the amount of P30,000.00.[1]The appellant, through counsel, claims that the trial court erred: (1) in giving weight and credence to the prosecution's evidence and not to the evidence for the accused; and (2) in overlooking many exculpatory facts which, if considered, would lead to the acquittal of the appellant.

The Court has considered the arguments of the appellant with due care and examined the record of the case and finds that the judgment of conviction is supported by sufficient evidence. Teresita Manzon, daughter of the victim, Rogelio Manzon, testified that at about 8:00 o'clock in the evening of 31 May 1982, while they were preparing to retire for the night and as she lay beside her father on a mat placed on the floor of their small house located at Barangay Supo, San Carlos City (Pangasinan), a loud explosion was heard. Thinking that a big firecracker had been exploded underneath their house, she rushed to the window and saw Kulas Garcia, Raffy Cayaan, Camilo Miranda and Robert Miranda running out from under their house and upon reaching a nangka tree, about eleven (11) meters from the house. Robert Miranda stopped and vomitted, and Raffy Cayaan and Camilo Miranda went back for him and then dragged him along with them. Camilo, Miranda said: "Hurry up you animal." [2]

Teresita Manzon further testified that when her mother, Nancy Manzon, came out from the adjacent room ("sipi") where she was nursing a newly born child, to inquire what the matter was, she saw that her husband was bleeding. She asked who was responsible for the act and Teresita told her mother that Robert Miranda, Camilo Miranda, Raffy Cayaan, and Kolas Garcia shot her father. Her mother then shouted: "animals, animals." They also cried for help.

Not long thereafter, her grandmother, Irene Manzon, and uncle, Federico Manzon, arrived. Teresita also told them that the persons who shot her father were Raffy Cayaan, Kolas Garcia, Camilo Miranda, and Robert Miranda, and Federico Manzon said: "I also saw them." Irene Manzon, however, warned them "not (to) reveal anything about this matter because the killers might again come back and kill again a member of our family." [3]

The following day, the cadaver of Rogelio Manzon was brought to the San Carlos General Hospital where Dr. Pablo P. Mondok III, Municipal Health Officer of San Carlos City conducted an autopsy. He found that the entrance wound was at the "paravertebral portion, left, thoracic vertebra" and the exit wound, about 7 x 7 cm. was

at the "subcostal margin, left parasternal line" and that the intestines bulged out. He opined that the assailant was at the back of the victim when he was shot.[4]

Juan Guille, another witness for the prosecution, testified that in the afternoon of 30 May 1982, the day before the killing of Rogelio Manzon took place, he saw Robert Miranda, Camilo Miranda, Raffy Cayaan and the deceased, Rogelio Manzon, drinking in the latter's house, and after consuming about six (6) bottles of San Miguel gin, a heated argument ensued between Rogelio Manzon, on one hand, and the group of Camilo Miranda, Robert Miranda, and Raffy Cayaan, on the other. He overheard Robert Miranda ask Rogelio Manzon to accompany them to steal an animal in Mangatarem, but that Rogelio Manzon refused. However, the group of Robert Miranda was insistent so that Rogelio Manzon said: "If you will ask me to go with you I will tell you to the police of what you have committed in theft of animals." Upon hearing this, one in the group of Robert Miranda cursed Rogelio Manzon, saying: "Vulva of your mother, you are an idiot we will kill you if you will reveal what we have been doing in the past." The accused then left, but they continued shouting to Rogelio Manzon: "You animal, idiot, we will kill you" even as they walked towards the road.[5]

The appellant claims, however, that the testimonies of the witnesses for the prosecution are not entitled to weight and credence. He contends, among others, that Teresita Manzon could not have recognized the persons who ran out from under their house after the explosion was heard, since the persons had their backs turned to her and the illumination was very poor.

The contention is without merit. Teresita Manzon declared that she was able to recognize the three (3) accused because the moon was shining brightly and Raffy Cayaan and Camilo Miranda faced her when they went back for Robert Miranda who had stopped and vomitted near the nangka tree.[6] It should be noted, in this connection, that the accused Raffy Cayaan, Camilo Miranda, and Robert Miranda, and the deceased, Rogelio Manzon, were close "barkadas", neighbors, even relatives by affinity, and had drinking sprees in the house of the deceased where they were often seen by the witness. Teresita Manzon, though of tender age, must have noticed something in the configuration of their bodies, peculiar to them alone, that would enable her to recognize them even in the dim light. It has also been said that "victims have a way of recognizing their tormentors." [7]

At any rate, the trial court found the testimonies of the prosecution witnesses to be credible and we have no reason to find otherwise. There is no contrary evidence to support a disbelief of the declarations of these witnesses. As a rule, findings of fact of the trial judge who has seen the witnesses testify and observed their demeanor and conduct while on the witness stand are not disturbed on appeal, particularly, as in this case, where no grave abuse of discretion is imputed to him.

The appellant also claims that the trial court overlooked several exculpatory facts which, if considered, would have led to his acquittal.

The Court finds, however, that the alleged exculpatory facts, pointed out by the appellant in his Brief, have been fully explained and are not of sufficient magnitude as to overturn the findings of fact of the trial court. Thus, the appellant pointed out that although the deceased, Rogelio Manzon, was shot on 31 May 1982, it was only on 4 December 1985 when the family of the deceased took interest in the prosecution of the accused. The delay, it is contended, militated strongly against the credibility of the charge against him.

It is not correct to say, however, that the family of the deceased Rogelio Manzon took interest in the prosecution of the case against the accused only on 4 December 1985. Records of the case show that the killing of Rogelio Manzon occurred on 31 May 1982 and the suspects involved in said killing were reported to the police authorities of San Carlos City on the following day, 1 June 1982, as indicated in the police blotter.[8] If no action was taken thereon until 5 December 1983, not 1985, as claimed by the appellant,[9] the blame could be ascribed to the

inaction of the police authorities of San Carlos City and Irene Manzon, mother of the deceased, Rogelio Manzon, who told her family not to prosecute the case as the killers of his son might come back and kill another member of the family, which fear of reprisal was not unfounded or imagined. Atty. Resngit, the private prosecutor, testified that when he was investigating the circumstances surrounding the killing of Rogelio Manzon, Ado Paed kept on "returning and returning many times around the premises" on orders of the accused Raffy Cayaan, Robert Miranda and Camilo Miranda.[10] It is of common knowledge that simple folks who have nobody to lean on find it more convenient to suffer in silence rather than invite possible repercussions.

The non-presentation of Federico Manzon and the wife of Rogelio Manzon as witnesses in this case cannot be considered suppression of evidence, as claimed by the appellant. These persons were available as witnesses and if the appellant believed that the testimonies of these persons were vital to his defense, he should have called them to testify on his behalf.

As to the appellant's claim that the trial court erred in not considering the evidence presented in his behalf, suffice it to state that the denial and alibi of the appellant cannot prevail over the positive testimony of the witnesses for the prosecution who had no motive to testify falsely against the appellant and impute to him the commission of so grave an offense. Besides, appellant's claim of innocence is belied by his conduct in leaving the neighborhood soon after the incident took place without even attending the wake of the deceased. Nor did he condole with the family, despite the fact that they were neighbors, friends and relatives.[11] Moreover, the appellant even tried to evade arrest.[12]

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with costs against the appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

* Penned by RTC Judge Ludovico Ma. Ipac, Branch LVII, San Carlos City, Pangasinan

[1] The information filed with the court charged Raffy Cayaan, Robert Miranda and Camilo Miranda with the crime of Murder. However, only Raffy Cayaan and Robert Miranda were tried as the other accused, Camilo Miranda, has not been arrested and his whereabouts are unknown. After trial, Raffy Cayaan and Robert Miranda were found guilty as charged. Both accused appealed. But, Raffy Cayaan later withdrew appeal. (Rollo, p. 76) (More)

Ado Paed and Kulas Garcia were also implicated in the killing of Rogelio Manzon. Although he admitted that he was with the three (3) accused when the deceased was shot, Kulas Garcia was not included because "he related and mentioned the unusual incident in detail" and that he paid the amount of P5,000.00 to the family of the deceased. (tsn of February 14, 1985, pp. 4, 11). Ado Paed, who had been going back to the scene of the crime upon the instructions of the accused was not also included in the information because he paid the amount of P3,000.00. (tsn of February 14, 1985, p. 12)

[2] tsn of April 19, 1985, pp. 14-17

[3] Id., pp. 17-19

[4] tsn of November 27, 1984, pp. 9-15; See also Exhibit C

[5] tsn of August 8, 1985, 3-7

[6] tsn of April 19, 1985, pp. 19-20

[7] People vs. Legaspi, G.R. Nos. 55103-04. August 18, 1988, 164 SCRA 481, 488-489

[8] Exhibit A

[9] Appellant's Brief, p. 9

[10] tsn of February 14, 1985, p. 12

[11] tsn of April 19, 1985, pp. 29-30; tsn of April 26, 1985, p. 3

[12] tsn of May 29, 1985, p. 7

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