

GERONIMO MANALAYSAY, ERNANI MANALAYSAY AND FROILAN MANALAYSAY, PETITIONERS, VS. HON. COURT OF APPEALS, RESPONDENT.

G.R. No. 79946. April 12, 1989

Ponente: CORTES, J.

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CORTES, J.:

For the death of Jose A. Jose, the brothers Froilan, Ernani, Geronimo, and Eugenio Manalaysay were accused of homicide under an information filed against them by the Provincial fiscal of Bulacan, which reads as follows:

That on or about the 4th day of April 1975, in the Municipality of Balagtas, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Eugenio Manalaysay, Hernani Manalaysay, Froilan Manalaysay and Geronimo Manalaysay, conspiring and confederating together and helping one another, and with intention to kill one Jose A. Jose, did there and then wilfully, unlawfully and feloniously attack, assault and hit Jose A. Jose on the head and different parts of his body with a brass knuckle (llave) and their bare hands, thereby inflicting upon him serious physical injuries resulting in the fracture of the right temporal running posteriorly towards the occipital region and to the left crossing the midsagittal line which caused cardio-respiratory arrest due to shock and subdural hemorrhage secondary to fracture of the skull which caused his death.

Contrary to law. [Record, p. 1.]

Upon arraignment, the accused pleaded not guilty to the offense charged. Pending trial of the case, Eugenio Manalaysay died and the remaining three accused, petitioners herein, were found guilty as charged by the Regional Trial Court of Bulacan in Criminal Case No. 1392-M, in a decision the fallo of which reads as follows:

WHEREFORE, judgment is rendered as follows:

1. The court finds the accused Ernani Manalaysay, Froilan Manalaysay and Geronimo Manalaysay guilty beyond reasonable doubt of the crime of Homicide and hereby sentences them to suffer the indeterminate penalty of twelve (12) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum;
2. Adjudging all of the accused to pay jointly and severally;
 - a. the sum of P30,000.00 for the death of the victim;
 - b. the amount of P42,000.00 as compensatory damages which the victim could have certainly earned for 7 years had it not been for his untimely death and the amount of P9,745.85 spent for his medical expenses, wake, coffin and funeral services as actual damages; and
 - c. the sum of P5,000.00 as attorney's fees.

With costs against all of the three (3) accused.

SO ORDERED. (Record, pp. 514-515.)

Not satisfied with the decision, the accused-petitioners interposed an appeal to the Court of Appeals docketed as AC-G.R. No. 01691-CR. The Court of Appeals affirmed the judgment of the trial court in a decision dated 3 July 1987. Hence this appeal, petitioners assigning the following as errors:

I

THE DECISION OF THE RESPONDENT COURT OF APPEALS IS NOT IN ACCORDANCE WITH LAW AND/OR WITH APPLICABLE DECISIONS OF THE SUPREME COURT.

II

THE ELEVATED DECISION FOR REVIEW IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

III

IN ALL EVENTS, THE RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONERS [G.R. No. 79946, Rollo. pp. 10-11.]

Froilan Manalaysay filed a separate petition in G.R. No. 79971, arguing that certain facts, circumstances and evidence were not considered in the resolution of the case and that there exists sufficient evidence on record to sustain a verdict of acquittal [G.R. No. 79971, Rollo, pp. 8 and 15.]

In assailing the decision of the appellate court, petitioners in essence raise two issues: First, whether the guilt of the petitioners has been proved beyond reasonable doubt and second, whether conspiracy attended the commission of the offense.

The evidence for the prosecution upon which the trial court based its judgment consisted of the medico-legal necropsy report, death certificate and the testimonies of several witnesses.

Col. Gregorio C. Blanco, the head of the medico-legal section of the PC Crime Laboratory who conducted the autopsy, described the fatal injuries sustained by the victim in the necropsy report dated 18 April 1975 as follows:

Findings:

Head and Trunk:

1. Contusion, right frontal region, measuring 6 x 4 cm, along the midsagittal line.
2. Contusion, left temporal region, measuring 10 x 4.5 cm, 8.5 cm, from the midsagittal line.
3. Contusion, right parietal region, measuring 4 x 3.5 cm, 5 cm from the midsagittal line.
4. Contusion, occipital region, measuring 5 x 3 cm, along the midsagittal line.
5. Lacerated wound, left post-auricular region, measuring 0.5 x 5 cm, 4.5 cm from the midsagittal line.
6. Lacerated wound, left post-auricular region, measuring 1.2 x 1.7 cm, 4.8 cm from the midsagittal line.
7. Contusion, left infrascapular region, measuring 1 x 7 cm, 21 cm from the posterior mid-line.
8. Contusion, left lumbar region, measuring 1 x 6 cm, 20 cm from the posterior midline.

There is fracture of the right temporal running posteriorly towards the occipital region and to the left crossing the midsagittal line. Also two craniotomy holes (trephining) are present, done by a local physician.

There is a massive subdural hemorrhage.

Remarks:

Cause of death is cardio-respiratory arrest due to shock and subdural hemorrhage secondary to fracture of the skull. [Exh."B", Folder of Exhibits.]

One of the three prosecution eyewitnesses, Leonila A. Jose, testified that at about 8:30 p.m. in the evening of 4 April 1975, Cristina Jose-Roxas, daughter of the deceased, arrived in the home of her sister-in-law, Leonila A. Jose, at Burol 2nd, Balagtas, Bulacan, reporting that Leonila's husband Alexander Jose was boxed by the accused Geronimo Manalaysay, during a basketball game, the assault being an offshoot of a quarrel earlier in the evening involving Alexander's sibling Virgilio and herein accused Ernani Manalaysay. The victim Jose A. Jose who heard the account, admonished those present to remain sober assuring them that he will settle the matter with the Manalaysays. Cristina soon left the house of Leonila and the victim followed her for fear that she might say something to offend the Manalaysays and will worsen the situation. Knowing that the victim had poor eyesight, Leonila and the victim's other daughter, Iluminada, decided to follow him and they caught sight of him in front of the Manalaysays' house. They were about four meters away when they saw the victim approach and talk to the four accused who were huddled together in conversation outside a store in front of their house [t.s.n., March 25, 1976, pp. 4-22.] Leonila, who saw that the four accused were angrily arguing with the old man, approached the victim. Before she could reach him however, she saw all the accused gang up on her father-in-law ("pinagtulung-tulungan") with Eugenio Manalaysay using a certain object in his hand which she found out later was a brass knuckle ("llave llesa") [t.s.n., April 6, 1976, pp. 10-29.] The victim fell to the ground face downwards and all the accused continued to kick him. When people arrived responding to shouts for help of Leonila and Iluminada, the accused abandoned the victim and fled to their house. PC Sgt. Arcadio Acosta who was conducting curfew patrol in the area, chanced upon the victim and assisted in bringing him to a neighbor's house, and eventually to the Yanga clinic [t.s.n., July 12, 1976, pp. 10-11.]

Iluminada Jose-Pompalan corroborated the testimony of Leonila A. Jose. She said that her father was asking forgiveness from the Manalaysay brothers when Eugenio struck her father with his fist wearing a hard metallic object between his fingers. The other Manalaysay brothers then joined Eugenio and they all mauled him. The pertinent portion of her testimony is as follows:

* * *

Atty. Fuggan

Q. What happened when you saw the four (4) Manalaysay brothers?

A. We stopped, sir.

Q. Then what happened?

A. My father was asking for forgiveness (dispensa), I pulled my father and I told him that let us go home.

Q. What happened when you pulled your father and said let us go home?

A. The moment that my father turned his back, Eugenio gave a fist blow to my father with a thing on his hand and after that, another one embraced my father, and the other one, Geronimo, was boxing the body of my father. (t.s.n., December 13, 1976, pp. 6-7.)

Witness Romeo Roxas also corroborated the testimonies of Iluminada and Leonila. Roxas narrated that he was on his way home from a basketball game when he saw the victim, his grandfather, conversing with the accused. Their conversation was temporarily interrupted when his grandfather instructed his aunts Leonila and Iluminada

to go home. When the victim turned to resume the conversation with the accused, he saw Eugenio Manalaysay punch the victim at the back of his head, using a brass knuckle ("llave Ilesa.") He also saw the three accused join in, all taking turns raining fist blows on the victim, hitting him on the head, face and torso. The victim fell to the ground flat on his face and the accused then took turns kicking the victim who had lost consciousness and was already lying prostrate on the ground.

PC Sgt. Arcadio Acosta also testified that while driving an Army jeep conducting curfew patrol at around 11:00 p.m. he and two other companions came upon an old man lying in the left side of the road with a woman beside him. Upon seeing the old man's condition, they immediately brought him to Yanga Hospital in Bocaue and referred the investigation of the reported incident to Sgt. Librado Santiago of the Balagtas police force.

The victim eventually succumbed on 12 April 1975 due to his injuries.

The version of the accused-petitioners as elaborated in their Petition is as follows:

Accused-appellant Froilan Manalaysay is an ice dealer with his store located at the public market of Balagtas, Bulacan. At around 8 p.m. of 4 April 1975, he and his brother Hernani, together with driver Godofredo Vergara, left their store for Sta. Maria, Bulacan to buy twenty blocks of ice which took them up to 9:00 o'clock in the evening to load. When they arrived at Balagtas, Bulacan they unloaded the ice blocks and because they had to spread rice husk over the ice blocks to prevent fast melting, it took them up to 11:00 in the evening to finish said unloading. After unloading the ice blocks, Froilan and his brother Hernani went home at the house of their sister Teodorica some thirty meters away from the store. Accused Froilan maintains that he could not have been one of those who mauled Jose A. Jose because of (sic) that time, he was still in Sta. Maria, Bulacan buying ice together with his brother Hernani who acted as his helper.

In the meantime, Geronimo was at the basketball court watching a basketball game and went home after the same was finished. On the other hand, Eugenio Manalaysay, who was then sleeping in his house, was awakened by one Aida, a neighbor, who informed him that members of the Jose family were inside the yard of his parent's house uttering defamatory words against his mother and sisters. He then hurriedly left for his parent's house, and on arrival thereat, he requested Tata Pepe (Jose A. Jose) to dissuade his companions from further hurling invectives as their families are related to each other. Present in the yard were the children, grandchildren and in-laws of Tata Pepe, namely: Alberto Jose, Cristina Jose, Alexander Jose, Iluminada Jose, Leonila Jose, Romeo Jose, Marcosa Jose and Teresita Jose. While thus pleading with Tata Pepe, Eugenio was punched by Alberto Jose, but he was able to hold him by hand. Seconds later, Eugenio saw Alexander Jose lift a piece of Adobe stone, 1 x 2 in size, and threw the same at him. When Eugenio saw the stone coming, he ducked but unfortunately the stone hit Tata Pepe in the head who fell to the pavement of the yard. Eugenio immediately scampered for safety to the house of his parents when he saw that the Joses were making a move to gang up on him. After one hour, policemen Liberato Santiago and Victor Cabuhat arrived in the house of Eugenio's parents and after a brief interview, he was prevailed upon to go to the police headquarters of Balagtas. He saw Iluminada Jose at the Police headquarters and heard her reported (sic) to the police that it was he (Eugenio Manalaysay) who mauled her father.

The story of Eugenio Manalaysay was fully corroborated (sic) by his sister, Carolina Manalaysay. On the other hand, Policeman Liberato Santiago then on duty as police investigator, testified that P.C. Sgt. Acosta who was then on routine patrol because of the curfew ban, met him on the night of the incident and told him to arrest Eugenio Manalaysay as the person who boxed the victim. No mention was made however of any other person, except that of Eugenio. The deceased Tata Pepe was then brought to a clinic and then to a hospital where he died after confinement of about a week. A certain Col. Gregorio C. Blanco from Camp Crame conducted an autopsy on the deceased, and described the alleged numerous wounds of the deceased, which, however, according to said doctor may also be possibly caused by treatment of the injuries. During trial despite the fact that the place was thickly populated, not a single disinterested witness who is not a relative of the deceased

testified in favor of the prosecution [G.R. No. 79946, Rollo, pp. 59-61.]

After a careful evaluation of the evidence of the parties, the Court is convinced beyond reasonable doubt that petitioners are guilty of the offense charged and that they and their deceased brother, Eugenio, acted in concert to perpetrate the killing.

The witnesses for the prosecution Leonila A. Jose and Iluminada Jose who were only an arm's length behind the victim when he was assaulted by the Manalaysay brothers directly and positively identified petitioners and their brother Eugenio as the persons who attacked and mauled the victim. They categorically stated that they saw petitioners and Eugenio deliver fist blows which hit the victim's head, face and torso. They also testified that petitioners took turns in kicking the victim when he fell to the ground. Their testimonies were corroborated in their material points by Romeo Roxas who affirmed that the petitioners joined their brother Eugenio in attacking the victim, Eugenio using a metallic object in his hand.

The medico-legal necropsy report supports Leonila's version of the events. The report shows that contusions were found on the head, face and back of the victim's body giving rise to a strong inference that these were the result of multiple blows and kicks inflicted by the accused. The evidence abovesited thus clearly establish beyond reasonable doubt that petitioners committed the crime of homicide.

On the issue of conspiracy, petitioners assail the trial court's findings holding them all liable for the crime claiming that conspiracy was not clearly established. The familiar rule is that the existence of conspiracy may be inferred from proof of circumstances which show concurrence of will of the parties in furtherance of a common design and every act of one of the conspirators in furtherance thereto, is the act of all [Antonio v. Sandiganbayan, G.R. No. 57937, October 21, 1988; People v. Serante, G.R. No. L-46724, July 31, 1987, 152 SCRA 510; People v. Lasanas, G.R. Nos. L-48879-82, July 7, 1987, 152 SCRA 40.] The trial court's finding that there was a concurrence of wills among the four accused in committing the offense charged was sufficiently established by the evidence. First, when the victim approached the accused to settle the earlier altercation between his sons Virgilio and Alexander and the accused Ernani and Geronimo Manalaysay, the accused were all in close conversation. Second, all the accused delivered fist blows on the victim, hitting him on his head, face and torso. The initial blow was delivered by Eugenio Manalaysay, who using a "llave Ilesa," hit the victim's head while the latter was being held by one of the brothers. The rest also took turns hitting him on the body. Third, when the victim fell, all the accused took turns kicking his prostrate body. No effort was made by any of them to pacify or prevent the others from inflicting further harm on the victim. Fourth, all the accused immediately left the victim and rushed home together when people arrived at the scene of the incident. The fact that they hurried away together is a strong indication of their guilt. The above circumstances reveal that the acts of the accused before during and after the incident indicate a common purpose or design to assault the victim.

Petitioners assail the credibility of the principal witnesses arguing that all of them were relatives of the accused. Their testimonies are likewise impugned on the ground of alleged contradictions. After a close perusal of the evidence however, the Court finds that the contradictions pointed out are minor inconsistencies which do not touch upon the commission of the crime and which do not affect the credibility of the witnesses [Cortez v. Court of Appeals, G.R. Nos. L-33246-48, June 30, 1988; People v. Bulosan, G.R. No. 58404, April 15, 1988; People v. Ausan, G.R. No. L-49728, 15 July 1987, 152 SCRA 52.] Neither does the relationship of the eyewitnesses to the victim impair their credibility [People v. Serante, supra.] Their testimonies being clear and credible there is no reason for not accepting them.

Finally the petitioners assail as error the trial court's failure to give weight to the petitioners' defense of alibi. Froilan and Ernani claim that at the time of the incident, they were with Godofredo Vergara in their stall in the

public market of Balagtas, Bulacan unloading ice blocks. Geronimo for his part testified that at the time of the incident, he was at the house of his aunt Aurea Manalaysay, while accused Eugenio, by way of denial and avoidance testified that it was Alexander Jose who caused the death of the victim.

It is a settled rule that alibi, being an inherently weak defense, cannot be considered unless clear and satisfactory evidence is presented to show that it was physically impossible for the accused to be present at the scene of the crime or at the vicinity thereof at the approximate time it was committed. Neither can alibi prevail over the clear, direct and positive identification of the accused as those responsible for the assault on the victim [People v. Melgar, G.R. No. 75268, January 29, 1988, 157 SCRA 718; People v. Reunir, G.R. No. 73605, January 29, 1988, 157 SCRA 686.]

Froilan admitted that the house of the victim was only a half kilometer from the house of his sister, where he and Ernani were staying. Froilan also admitted that it would have taken him only ten minutes to reach the crime scene by riding a tricycle [t.s.n., August 14, 1980, p. 8.] Geronimo, who claimed that he went to his aunt's house after the pushing incident between him and Alexander Jose, likewise revealed that his aunt's house is only about fifty meters distant from the scene of the incident [t.s.n., March 20, 1981, p. 7.] Considering the distances between the places where the petitioners claim to have been and the crime scene, it was physically possible for them to have been present there during the commission of the crime.

More importantly, petitioners were clearly and positively identified by the prosecution's witnesses. No ulterior motive to testify falsely against the petitioners having been imputed to them, their testimonies corroborated by other evidence on record satisfy the test of moral certainty and point to the guilt of petitioners beyond reasonable doubt.

As to the award of compensatory damages to the heirs of the deceased, the Court finds the same to have been adequately proved and thus finds no reason to amend the same.

As to the penalty imposed, since neither mitigating nor aggravating circumstance was proved, reclusion temporal should be imposed in its medium period. Applying the Indeterminate Sentence Law, the Court in its discretion fixes the penalty at eight (8) years and one (1) day of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

WHEREFORE, the petitions are hereby DENIED and the decision appealed from finding petitioners guilty of homicide is AFFIRMED, with the modification that the petitioners are sentenced to suffer the indeterminate penalty of eight (8) years and (1) day of prision mayor as minimum, to seventeen (17) years and four (4) months of reclusion temporal as maximum, and to indemnify the heirs of Jose A. Jose in the amount of P30,000.00.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., and Bidin, JJ., concur.

Feliciano, J., on leave.

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