

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADOLFO QUIÑONES, RONILO CANABA, AMADO CONDA, JR., ZALDY CIVICO AND ALFREDO ABAN, ACCUSED-APPELLANTS.

G.R. NO. 80042. March 28, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

On June 30, 1986, the bodies of three men were found in a wooded area in barangay Tuaco, Basud, Camarines Norte. The corpses were in a state of decomposition and bore various contusions, stab and bullet wounds, and other injuries indicating foul play. The victims were later positively identified as Alexander Sy, Augusto Gabo and Frisco Marcellana.

In due time, an information for robbery with multiple homicide was filed against Adolfo Quiñones, Alfredo Aban, Zaldy Civico, Ronilo Canaba, Amado Conda, Jr., Santiago Solarte, Armando Buitre and one John Doe.[1]

On their arraignment on November 13, 1986, Quiñones, Canaba, Aban, Civico and Conda pleaded not guilty. On November 20, 1986, Conda, Canaba, and Quiñones withdrew their plea of not guilty and entered a plea of guilty.[2] On April 1, 1986, Conda was allowed to withdraw his former plea of guilty and substitute the same with not guilty.[3] Solarte escaped and is presently at large while Buitre was killed in an encounter with the Manila police.[4]

Judge Luis D. Dictado of the Regional Trial Court of Daet, Camarines Norte directed the prosecution to present evidence also against Quiñones and Canaba despite their plea of guilty, which they maintained even after being informed of its possible consequences, including the death penalty. After trial, judgment was rendered convicting all the accused (except Solarte, who had not yet been arrested, and Buitre).[5]

The evidence for the prosecution established that the three victims were riding in a dark blue Mitsubishi car at about seven o'clock in the evening of June 27 or 28, 1986, when they were intercepted along the Maharlika Highway in the above-named barangay by the accused, who had placed sacks on the road to block the way. The three were taken to the nearby woods where they were killed.[6] According to his brother, Napoleon, Alexander Sy was at that time carrying P300,000.00, representing the weekly collections of his business, a necklace with pendant worth P20,000.00, a P10,000.00 diamond ring, and a licensed .22 caliber handgun.[7] All this, together with the other articles belonging to the victims, were taken by the accused, who also used the car in fleeing to Sapang Palay, where it was recovered without the stereo and the spare tire.[8]

The first to be picked up for questioning was Conda, who implicated the other accused and led a police team to the house of Sonny Tabalan, where Solarte was hiding. Inexplicably, Conda and Solarte both escaped. However, the police found in Tabalan's house one live grenade, one .38 caliber pistol, a defective air rifle with magazine, and a wooden rifle which he said had been brought there by Solarte and Quiñones. In separate extra-judicial statements,[9] both Quiñones and Canaba identified these weapons as the ones used in the commission of the crime.[10]

Testifying for the prosecution, Francisco Bariuan declared that on July 7, 1986, Solarte came to his house and asked him to pawn a watch for P300.00. Solarte returned the following day with Canaba and Conda. They were carrying guns and a grenade. Solarte informed him that they were the ones who, together with Buitre, Quiñones and Aban, had killed Sy and his companions. He and Solarte left later to hire a jeep, and Canaba and Conda stayed behind, warning him that they would blow up his house if he squealed on them.[11]

But the case for the prosecution really depended on the statements of the accused themselves, principally Quiñones and Canaba. Both were informed of their constitutional rights before their investigation and were actually assisted by Atty. Santiago Ceneta when they gave their separate confessions.[12] Both confessed to the crime charged and narrated in detail their participation in its commission.

Quiñones later testified that he had been subjected to torture to force him to admit the killing and robbery,[13] but as the trial judge noted, no proof of such coercion was ever presented in court. Moreover, the witness' narration of the commission of the offense substantially jibed with the testimony of the other accused, thus negating the suspicion that it had been merely concocted. Understandably, Quiñones sought to minimize his participation in this crime by claiming that he stayed in the car when the three victims were forcibly taken to the woods where they were robbed and slain.[14] This is another indication that he had not been manhandled into signing the confession.

It is important to note that when asked at the trial if he was affirming his extra-judicial statement, he categorically said he was,[15] thus in effect reiterating his detailed account of the conduct of the several accused, including their escape to Manila in the stolen car and their distribution of the loot among themselves. This was now a judicial confession. Interestingly, Quiñones also admitted to two other hold-ups and his membership in another gang of robbers headed by one Kapitan Mitra, an unnecessary embellishment that lent further credence to his confession.[16]

Canaba's own statement corroborated Quiñones's confession and provided more elaboration. Like Quiñones, he admitted that they had placed sacks on the road and forced the three victims to go with them to the parke where they were unclothed and killed, two by Buitre and the third by Solarte. Quiñones remained in the car. Afterwards, the accused distributed the cash among themselves, each receiving P10,000.00, with Solarte and Buitre getting the weapons also. Using Sy's car, they proceeded to Sapang Palay after leaving the weapons with Sonny Tabalan in his house in Tigbinan.[17]

Conda also gave an extra-judicial confession, but this was not made with the assistance of counsel and so must be rejected. It is totally worthless and inadmissible against him. Such a confession is anathema in a free society. It was not recognized even during the era of martial law under the 1973 Constitution as interpreted by the Court in *People v. Galit*. [18] And it is also scorned under the present Constitution, which is more deeply committed to the protection of the rights of the accused.

Civico also gave an extra-judicial confession, likewise without the assistance of counsel.[19] But testifying on his behalf, he purged it of invalidity when he freely affirmed it on the stand in the presence of the judge himself and with the assistance of defense counsel.[20] By so testifying, he in effect reiterated - but validly this time - his earlier narration, replete with all the damning details, of the commission of the crime.

The Court is satisfied that the evidence against the accused is sufficient to justify their conviction. The declarations of the prosecution witnesses - and more so of defendants Quiñones and Canaba, both of whom had pleaded guilty - are telling enough to toll their guilt. The seized weapons and the other exhibits offer strong corroboration that has not been refuted. The state of the cadavers - of the swollen scrotums and the protruding tongues - tell a tale of their own of the defendants' perverted ruthlessness.

By contrast, the defense was practically one of mere denial. Even the claimed maltreatment of Quiñones has not been established.

It is clear from the evidence on record that there was a conspiracy among the perpetrators of the crime to rob and slay. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. This need not be established by direct evidence but may be proven through the series of acts done by each of the accused in pursuance of the common unlawful purpose.[21]

Proof of conspiracy in the case at bar was supplied, paradoxically enough, mainly by defendants Quiñones and Canaba themselves. From the time they blocked the road to waylay their prey, to the killing and robbing in the woods, to the distribution of the loot and their escape in the stolen car, all the accused were acting in concert and in accordance with their common plan.

It is argued that Civico and Aban were not part of the conspiracy and that Quiñones himself categorically said so in answer to a question from the prosecution. Interpreting this merely as a gesture of loyalty or perhaps goodwill or charity toward his fellow criminals, we dismiss it as a falsity. On the other hand, Civico himself admitted his own participation in the offense, and in his sworn confession (which he affirmed in court) also implicated Aban. And there is also Bariuan's testimony that Aban was one of the armed group, including the other accused, that went to his house on July 8, 1986, and talked of their commission of the crime. These declarations are enough to place the two defendants within the conspiracy together with the other defendants.

In a conspiracy, the act of one is the act of all and every one of the conspirators is guilty with the other in equal degree. Hence, every member of the group that perpetrated the killing and robbery of the three victims must suffer the same penalty prescribed by law even if they had different modes of participation in the commission of the crime.[22]

The trial judge found all the accused guilty as charged and sentenced each of them to serve the triple penalty of reclusion perpetua and to pay actual and compensatory damages in the amount of P380,000.00 to the heirs of Alexander Sy, P50,000.00 to the heirs of Augusto Gabo, and P50,000.00 to the heirs of Frisco Marcellana. The firearms were also confiscated in favor of the State.

The Court finds that the accused were incorrectly charged with robbery with multiple homicide and so were also incorrectly sentenced by the trial court. The reason is that there is no crime of robbery with multiple homicide under the Revised Penal Code. The charge should have been for robbery with homicide only regardless of the fact that three persons were killed in the commission of the robbery. In this special complex crime, the number of persons killed is immaterial and does not increase the penalty prescribed in Article 294 of the said Code. As held in *People v. Cabuena*: [23]

But it was error to sentence the appellants to three life imprisonments each as if 3 separate crimes had been committed. The complex crime of robbery with homicide is not to be multiplied with the number of persons killed. As was said by this Court in *People vs. Madrid* (88 Phil.1), "the general concept of this crime does not limit the taking of human life to one single victim making the slaying of human being in excess of that number punishable as separate individual offense or offenses. All the homicides or murders are merged in the composite, integrated whole that is robbery with homicide so long as the killings were perpetrated by reason or on the occasion of the robbery."

The penalty prescribed for the crime of robbery with homicide is reclusion perpetua, to be imposed only once even if multiple killings accompanied the robbery. Furthermore, the discussion by the trial court of the attendant circumstances was unnecessary because Article 63 of the Code provides that when the law prescribes a single indivisible penalty, it shall be applied without regard to the mitigating or aggravating circumstances that may have

attended the commission of the crime.

The civil indemnity for each of the three victims is reduced to P30,000.00, to be paid to their respective heirs. The heirs of Alexander Sy are also awarded the additional sum P330,000.00, representing the value of the articles taken from him by the accused.

WHEREFORE, the conviction of all the accused-appellants is AFFIRMED, but each of them is sentenced to only one term of reclusion perpetua for the crime of robbery with homicide. The monetary awards are also modified in accordance with the preceding paragraph. It is so ordered.

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

[1] Rollo, p. 6.

[2] Records, pp. 54, 60, 65.

[3] Ibid., p. 178.

[4] Rollo, p. 53.

[5] Ibid., p. 18.

[6] Records, p. 39.

[7] TSN, January 28, 1987, p. 5.

[8] TSN, March 19, 1987, p. 7.

[9] Records, pp. 28, 36.

[10] TSN, November 27, 1986, pp. 47-48.

[11] TSN, March 24, 1987, pp. 6-12.

[12] Records, pp. 28, 36.

[13] TSN, April 1, 1987, pp. 21-23.

[14] Records, p. 29.

[15] TSN, April 1, 1987, p. 54

[16] Records, pp. 32-34.

[17] Ibid., pp. 37-38.

[18] 135 SCRA 465.

[19] Records, p. 9.

[20] TSN, April 8, 1987, pp. 11-13.

[21] People v. Pineda, 157 SCRA 71.

[22] People vs. Salvador, 163 SCRA 574.

[23] 98 Phil. 919.

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