

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO DE GUZMAN Y DE DIOS, ACCUSED-APPELLANT.

G.R. No. 82002. December 20, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

The Court has examined the records of this case and finds there is no reason to reverse the appealed decision. In resisting the charge leveled against him, the accused-appellant has inextricably ensnared himself in a confusion of lies that has proved to be his undoing. Well might he have been warned, although these words would have been alien to him:

O what a tangled web we weave

When first we practice to deceive![1]

The victim was a 68-year old woman who, despite her age, was still working at her small store at the Daraga Public Market in Albay. On October 30, 1984, at about seven o'clock in the evening, she was waylaid and stabbed for refusing to part with the handbag she was carrying. One hour later, Josefa Milallos was dead.

On February 15, 1985, an information for robbery with homicide was filed against Francisco de Guzman and Arjun Perez. The charge carried the allegation that de Guzman was a recidivist. After trial, the accused-appellant was found guilty and sentenced to life imprisonment and to pay civil indemnity in the sum of P30,000.00. He was also required to restore the value of the things stolen from the victim in the total amount of P1,900.00. Perez was acquitted on the ground that there was absolutely no evidence against him.[2]

In this appeal, de Guzman claims he had been mistakenly identified and that he was nowhere at the scene of the crime when it was committed.

The principal witness for the prosecution was Maybel Millena, who was with her grandmother at the time of the fatal assault. This 16-year old girl testified that, after locking up for the day in question, she and her Lola left the market and proceeded for home, taking the route on Gen. Luna St. As they neared the Ludovice Hospital, a man emerged from behind a post near a garbage can and approached them. Without much ado, he detained her Lola by her right hand even as he tried to unsling the handbag the old woman was carrying over her shoulder. Her grandmother resisted and the man said, "Hold-up yadi!" (This is a hold-up!"), at the same time drawing a knife from his waist. Terrified, Maybel started to run but after covering a distance of only five meters she went back as she could not leave her grandmother behind. By then, however, the man was already fleeing with her Lola's handbag and the old woman was bloody from her wounds. Her Lola said the fleeing man had stabbed her. Maybel and two men took the fallen victim to the nearby hospital but it was too late.[3] The three stab wounds on her chest had drained her life.

In a sworn statement she made at the Daraga police station on November 6, 1984, Maybel described her grandmother's killer as "more or less 5'5" in height, medium build, fair complexion, slightly curly hair, with

mustache, limp (pilay), wearing whit T-shirt and maong pants."[4] Later, on November 23, 1985, when she was asked to look at a police line-up of twelve detainees, she readily pointed to the accused-appellant as the man who had attacked her grandmother.[5]

In its brief, the defense argues that Maybel could not have remembered all the items of the killer's appearance during the short period she saw him that night, more so since she was terrified of her own life at the time. That is one viewpoint. On the other hand, it is possible that the incident and all its gory details, including the description of the man who killed her grandmother, were etched in her mind because of their traumatic impact.

The Court approves the following conclusions of Judge Antonio A. Arcangel of the Regional Trial Court of Legazpi City:

This Court is bent to believe the prosecution that accused Francisco de Guzman y de Dios was indeed the heartless culprit who robbed and killed the 68-year old woman last October 30, 1984. For one, he was positively identified by Maybelle Millena who had no doubt about his identity because she claimed the accused, when running away, was illuminated by the lights of the electric post, the pub house and the very bright Shell gasoline station where the accused ran towards in trying to escape. But what convinced this court about the identity of the accused Francisco de Guzman y de Dios is the fact that as early as November 6, 1984, when Maybelle's sworn testimony was taken by the police of Daraga, which was more than two weeks before the accused was seen by her in the Tabaco Municipal Jail, Maybelle already clearly described the culprit as more or less 5'5" in height, medium built, fair complexioned, slightly curly hair, with moustache, limp (pilay), wearing white T-shirt and maong pants (Exh. I-D). This description of the culprit on November 6, 1984 matched substantially and strikingly with the description of the accused Francisco de Guzman. Accused de Guzman says he is 5'7 1/2" while Maybelle says he is 5'5" in height which is a negligible difference and could be excusable considering that that was only an approximation. Accused de Guzman is observed by this court to have wavy hair which fits the description and that he was slightly curly. (Accused tried to conceal this by having his hair cut very short during the hearing); accused de Guzman has a moustache which he admits he sports but had it shaven before he testified; he is medium built, fair complexioned, and above all, he limps on his left leg. He also tried to hide his limp and even denied having scar on his left leg although he subsequently changed his mind and admitted his leg injury which he claimed was caused by Pat. Berchez of Tabaco who shot him before October 30, 1984. The above descriptions dovetail with each other, and are just too glaring to be overlooked in revealing the true identity of Francisco de Guzman as the real culprit.

De Guzman testified that he was at Rawis, Legazpi City, at the time the offense was committed and that he went to Daraga only at about nine o'clock in the evening of October 30, 1985. We choose not to believe him. In the first place, Daraga is only about five to six kilometers away from Rawis and can be reached in twenty minutes by public motor transportation. In the second place, he did not even present a single corroborating witness. Worst of all, his own sworn statements show that he is, in the trial judge's words, "an inveterate liar" whose own falsities have condemned him.

He denied ever having been convicted of robbery only to be confronted with the decision finding him guilty of the offense.[6] He denied having been imprisoned in other cases but later admitted he had been jailed for the crime of assault.[7] He denied he had a scar on his left leg when in fact he had not one but two scars on that leg.[8] He pretended not to limp but said later he was limping because he had earlier been shot in the leg by a policeman.[9] He also said he had been manhandled while under detention and even sustained "broken ribs"[10] but did not complain earlier about his injuries or submit to medical treatment. It is also noteworthy that before the trial, he had his hair cut short and shaved off his mustache so he would not fit Maybel's description of the killer.

We hold that the accused-appellant's defense was properly rejected by the trial court. His positive identification by Maybel, who was with her grandmother when she was stabbed, and, no less important, his own flawed statements

under oath, not to mention his other evasive acts, served only to reveal his deceptive character. There is no doubt at all that he was the person who robbed and killed Josefa Milallos in the evening of October 30, 1984.

The trial court was correct in approving the claim for the stolen property, consisting of a ring and earrings, the value of which was established without contravention at P1,600.00 by the victim's son, Alfredo Milallos, and of the P200.00 in the bag, plus the bag itself.[11] However, the civil indemnity must be increased from P30,000.00 to P50,000.00 in accordance with the resolution of this Court en banc dated August 30, 1990.

Considering the age and relative defenselessness of Josefa Milallos and the peacefulness of her humble pursuits, one cannot but be saddened over the violent way her life was ended. The penalties imposed upon the heartless killer seem disproportionate to his terrible deed, which cruelly and needlessly denied a harmless old woman the serenity of her declining years.

WHEREFORE, the appealed decision is **AFFIRMED** as modified, with costs against the accused-appellant.

SO ORDERED.

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

[1] Sir Walter Scott, *Marmion*.

[2] *Rollo*, p. 240.

[3] *TSN*, June 27, 1985, pp. 7-20.

[4] Exhibit "1-D."

[5] *TSN*, April 25, 1986, pp. 2-6.

[6] *TSN*, July 11, 1986, p. 17.

[7] *Ibid.*, p. 19.

[8] *id.*, p. 30.

[9] *id.*

[10] *id.*, p. 28.

[11] *Decision*, *Rollo*, p. 254.

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