

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO BENITEZ, JR. @ JIMMY, AND RODANTE CESAR, ACCUSED, FRANCISCO BENITEZ, JR. ALIAS JIMMY, ACCUSED-APPELLANT.

G.R. No. 83697. October 04, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

In an alley at Barangay Sapang, Ternate, Cavite, in the evening of June 21, 1980, Ferdinand Andra was set upon and stabbed in the abdomen and in the back. Immediately after the assault, he was given emergency medical treatment at the Grace Hospital at Rosario, Cavite, but eventually died from his wounds five (5) days later.

It was not until seven (7) months later that an information was filed in the Regional Trial Court of Cavite against one of the persons suspected of the crime, Romeo Ilustrisimo. The indictment filed on February 24, 1981 accused Ilustrisimo of the felony of murder by having — “together with Francisco Benitez, Jr. alias Jimmy, and Rodante Cesar, who are both at large” — in conspiracy with each other, and with evident premeditation and abuse of superior strength, inflicted several stab wounds on Ferdinand Andra thereby directly causing his death. The case was docketed as Criminal Case No. 1005.

Some four (4) years later, and after the apprehension of Francisco Benitez, Jr., another information was filed under date of January 11, 1985, against the two (2) other suspects in the killing, Francisco Benitez, Jr. @ Jimmy and Rodante Cesar. The information charged them with exactly the same offense of murder in language identical to the first information which initiated Criminal Case No. 1005. The second action was docketed as Criminal Case No. NC-70.

Proceedings were jointly held against Romeo Ilustrisimo (charged in Criminal Case No. 1005) and Francisco Benitez, Jr (charged in Criminal Case No. NC-70). Up to that time Rodante Cesar had not been found and arrested. Both Ilustrisimo and Benitez entered pleas of not guilty on arraignment. Trial thereafter ensued which eventuated in the conviction of both accused for the crime of murder.

The Trial Court’s consolidated decision dated April 4, 1988, made the following somewhat intriguing disposition:[1]

“WHEREFORE, in consideration of the foregoing premises, this Court finds accused Romeo Ilustrisimo and Francisco (Jimmy) Benitez, Jr., guilty beyond reasonable doubt, as charged. There being no mitigating but aggravated by circumstance of nighttime, both accused shall serve the medium penalty of imprisonment of Reclusion Perpetua as provided for by Art. 248, Revised Penal code, as amended by the 1987 Philippine Constitution, and to pay the heirs of Ferdinand Andra actual and compensatory damages in the total sum of P38,000.00 jointly and severally. With costs de officio.”

Both Ilustrisimo and Benitez appealed and in this Court filed separate briefs in which they basically fault the Trial Court with having failed to acquit them on reasonable doubt, contending that the evidence adduced against them

was inadequate to establish their guilt of the crime.

The Trial Court accepted the version of the occurrence depicted by the testimony of the prosecution's two (2) eyewitnesses Arnold Diones (a relative of the deceased and the appellants) and Armando Andra (the victim's uncle), as corroborated by the evidence given by (a) Gonzalo Andra (the victim's father) -- who deposed about the decedent's dying declarations, (b) Dr. Jose C. Yap — who testified about the post-mortem examination conducted on the cadaver of Ferdinand Andra, (c) Eleuterio Andra — who testified about the appellants' prior declarations to do away with Ferdinand Andra, and (d) Pat. Efren Andra and Pat. Ricardo Huerto, the arresting and investigating police officers.

The evidence given by these witnesses, in the Trial Court's view, amply demonstrated the material facts and established the appellants' guilt of murder beyond reasonable doubt. Following is the narration of the facts thus proven, according to the Court *a quo*:

1. In the evening in question, Arnold Diones saw Romeo Ilustrisimo in a dark place in an alley at Barangay Sapang, Ternate, Cavite, where he was shortly joined by Francisco Benitez, Jr. who wore nothing from the waist up, and Rodante Cesar. Diones, who was only about three (3) meters away, heard Francisco Benitez say to the others, "You hold him, and I'll be the one who will stab."

2. A few minutes later, Ferdinand Andra came out of his house and was invited by "Jimmy" Benitez to have some drinks at the house of a certain Andy Angeles. Ferdinand agreed, and they all began to walk down the alley until they came to a coconut tree which was about seven (7) meters away from where Armando Andra (Ferdinand's uncle) was talking with one Pedro Piliin.

3. At that point, Ilustrisimo suddenly grabbed Ferdinand's right arm and twisted it, while Rodante Cesar grabbed Ferdinand by the shoulder. Francisco Benitez thereupon stabbed Ferdinand twice with a kitchen knife. Ferdinand struggled and shouted for help but after being stabbed, fell to the ground. All this was being watched by the witness, Diones, who also cried out, "Saklolo, sinaksak si Kuya Ding!"

4. Armando Andra, who as above stated was talking with Pedro Piliin, heard Ferdinand's shout, "Huwag ninyo akong patayin; Lolo, tulungan po ninyo ako, sinaksak po ako nina Jimmy Benitez." With Pedro Piliin, Armando at once rushed to the place and saw Francisco Benitez stab Ferdinand twice while the latter was being held by Romeo Ilustrisimo and Rodante Cesar. Benitez then saw Armando and Pedro Piliin and shouted, "Takbo, Kuya Romy, may tao." The three assailants fled.

According to Armando Andra, the scene was well illumined by a bright moon and by the lights streaming out from his house and that of Eleuterio Andra — grandfather of both Ferdinand, the victim, and Jimmy Benitez, the latter's attacker.

5. Armando Andra went to Ferdinand, who was lying face down on the ground, turned him over and cradled his head in his lap. When Ferdinand's parents, Lilia Diones and Gonzalo Andra, arrived not long afterwards, they all brought Ferdinand to the hospital, in a Ford "Fiera."

6. Gonzalo Andra, Ferdinand's father, heard Arnold Diones' cry that Ferdinand was stabbed. Gonzalo was on his way to the house of his own father (Eleuterio Andra). He hurried to the place and saw his bleeding son, lying on the ground in the embrace of his uncle, Armando Andra.

7. On the way to the Grace Hospital, Ferdinand told his father, Gonzalo, "Itay, ang sumaksak po sa akin, si Jimmy Benitez po, at pinilipit naman po ang aking kamay nina Romeo Ilustrisimo at Rodante Cesar." This statement Ferdinand repeated to his father on the second day of his confinement at the hospital. Ferdinand died on June 26,

1980. His father, Gonzalo, had to pay the hospital bill in the amount of P5,090.70, and the funeral expenses in the sum of P3,000.00. He also had to pay attorney's fees in the sum of P20,000.00 and additional fees of P400.00 per appearance.

8. Dr. Jose C. Yap, Director of Grace Hospital, confirmed that Ferdinand had indeed sustained two (2) stab wounds, in the back and in the abdomen, that he was treated at the hospital for said wounds but nevertheless died four (4) days later due to cardio-respiratory failure, secondary to septicemia, on account of his wounds, and peritonitis.

9. It appears that three (3) days before the killing of Ferdinand (on July 18, 1980, to be precise), Eleuterio Andra — the grandfather of both the victim and Jimmy Benitez — had come upon Jimmy Benitez, Romeo Ilustrisimo and Rodante Cesar drinking in the house of Lauro Angeles, and had heard part of their conversation. He heard the following utterances: of Jimmy, "Napalaki ang atraso sa akin niyang si Ferdinand;" of Romeo, "Banatan mo at ako ang bahala;" and of Rodante, "Banatan mo, pare, sa buhay at kamatayan, hindi kita pababaya." He saw them again drinking in the same place two days later (the day before the slaying), and overhead Rodante Cesar say, "Ituloy ang balak." Eleuterio had told all this to Gonzalo Andra, Ferdinand's father. The latter told him not to worry as he would take care of the matter.

10. Only Romeo Ilustrisimo was arrested and taken into custody on the night of the murder. Franciso (Jimmy) Benitez, Jr. and Rodante Cesar could not be found; they had gone into hiding. Benitez was not arrested until December, 1984, some three and half years later. Rodante Cesar remains at large to this day.

In an attempt at exculpation, Jimmy Benitez put up the claim of self-defense. His testimony is that shortly before the killing, he was accompanying his brother-in-law, Romeo Ilustrisimo, who was on his way to the house of Andy Angeles to hire a vehicle to take him to the airport. They met Rodante Cesar and Ferdinand Andra, who decided to go with them. They stopped at Rodante Cesar's home because he wanted to tell his wife where he was going. Ferdinand suggested that Romeo wait for Rodante, while he and Jimmy Benitez went on ahead to Andy Angeles' place. As Jimmy and Ferdinand proceeded to walk to their destination, the latter suddenly addressed the former in an angry tone, "Ang tigas ng ulo mo, binalaan na kita," at the same time drawing a knife with which he tried to stab Jimmy. Jimmy grabbed Ferdinand's hands and they fought for possession of the knife. In the struggle, Ferdinand was hit with his own knife. They both fell, and rolled around on the ground, still grappling. Romeo Ilustrisimo and Rodante Cesar came at this point and forthwith separated them. The protagonists thereupon both ran away in different directions.

Jimmy told the Court that Ferdinand had attacked him probably because the latter's sister is his sweetheart, and Ferdinand resented this. After the fight, he had gone into hiding in the mountains of Bulacan on advice of his parents; they were all fearful that Ferdinand's uncle, a policeman, might kill him, to avenge his nephew's death. He surrendered to Governor Remulla in December, 1984.

Romeo Ilustrisimo, Jimmy's brother-in-law, testified that he had nothing to do with Ferdinand's killing. The fight took place only between Ferdinand and Jimmy. In fact, the first inkling he had that there was such a fight was when he and Rodante Cesar came on the scene and saw the two rolling on the ground, grappling. Romeo and Rodante forthwith separated the two, whereupon the latter ran off in different directions. Not having noticed any injury on either Ferdinand or Jimmy, Romeo had continued on his way to Andy Angeles' house because, as already stated, he needed to hire a vehicle as he was leaving very shortly to work in Saudi Arabia.

Carmelita Ilustrisimo, Romeo's wife and Jimmy's sister, also took the witness stand. She confirmed Romeo's story that he had gone to Andy Angeles' house to borrow a vehicle for use in going to the airport whence he would leave for Saudi Arabia. She stated that Pat. Efren Andra and Barangay Captain Johnny Andra came at

midnight and searched her house, looking for her brother Francisco Benitez, Jr., but did not find him; and that they came back an hour later to invite her husband for investigation at the municipal building.

Once again as in most criminal cases, the issue is reduced to one essentially of credibility, a weighing of the evidence of the prosecution against that of the defense. In this case, it does not seem to the Court that the Trial Court committed any error in extending superior credit to the proofs of the Government.

The declarations of the two eyewitnesses, made in open Court in categorical, straightforward and frank manner, agree on all substantial points, are complimentary and corroborative of each other, and remained consistent under cross-examination.[2] Moreover, their statements relative to the injuries of the victim are entirely consistent with the testimony of the physician who performed the autopsy on said victim.

Francisco (Jimmy) Benitez's protestations of innocence, his plea that he acted in defense of his person, are belied by his flight from his home and his having remained in hiding for four (4) years (as well as by the flight of his co-accused, Rodante Cesar, who remains at large to this day).[3] Apparently, he gave himself up only when he could no longer stand the life of a fugitive. His claim that he had concealed himself from the authorities for four years because of fear of the vengeance that he expected would be exacted by his victim's uncle, a policeman, is puerile. There is absolutely no evidence that that policeman was so powerful or dominant a person in the community as to preclude the extension to Jimmy Benitez of any protection and security by other police officers and the municipal officials. It is in any event an assumption that on its face is incredible.

Besides, his declaration that he had stabbed Ferdinand only once, inflicting a wound that had entirely penetrated the latter's body, is contrary to the physical evidence, that the latter had in truth sustained two wounds, one in the abdomen, on the left hypochondriac region, and the other at the back, on the midscapular line.

What is decisive is that his testimony, and that of his co-accused, Romeo Ilustrisimo, are flatly contradicted by those of the eyewitnesses who have not been shown to be motivated by bad faith or any illicit intention in testifying against the appellants, and whose stories, to repeat, are believable, natural, cohesive and mutually corroborative. The evidence given by them shows that the three accused had acted in conspiracy, demonstrated by their having acted in concert, simultaneously, helping and cooperating with one another, and obviously in pursuit of a common objective.[4] On the whole, the Court has no hesitation in concurring with the Trial Court's adjudgment that there is no reason whatever not to accord full faith and credit to the proofs of the prosecution, that the evidence of the defense suffers by comparison, and that all things considered, the guilt of the appellants has been established beyond reasonable doubt.

The Court appreciated the aggravating circumstance of nighttime against Jimmy Benitez and Romeo Ilustrisimo. This is not correct. There is no persuasive showing that they had purposely sought to commit the crime in the darkness of night in order to facilitate the achievement of their objective, prevent discovery or evade capture; hence, nocturnity cannot be considered to aggravate their criminal liability.[5] Besides, the evidence of the prosecution itself shows that the crime scene was well illuminated by a bright moon and by the light radiating out of the houses of Armando Andra and Eleuterio Andra.

Attention was earlier drawn to the sentence imposed by the Trial Court on the appellants, i.e., the "medium penalty of reclusion perpetua." There is no such thing, of course, as the "medium period" of reclusion perpetua, which is a single, indivisible penalty. What the Trial Court probably meant, and should have said, was that the penalty for murder in Article 248 of the Revised Penal Code — reclusion temporal in its maximum period to death — should be imposed in its medium period, there being no modifying circumstances present. Now, in *People v. Muñoz*, promulgated on February 9, 1989,[6] the Court en banc ruled that the prohibition in the 1987 Constitution against the imposition of the death sentence,[7] "does not change the periods of the penalty prescribed" by said

Article 248; that the “range of the medium and minimum penalties remains unchanged;”[8] and that the medium period of the penalty prescribed by Article 248 “is still reclusion perpetua.” Furthermore, in addition to the sum of P38,000.00 directed to be paid by the Trial Court to the heirs of Ferdinand Andra as compensatory damages, the appellants shall pay to said heirs, jointly and severally, the sum of P50,000.00 as indemnity for death; this in accordance with current doctrine.

WHEREFORE, affirming the factual conclusions of the Trial Court, but modifying the disposition in its judgment relative to the criminal and civil liability of the malefactors, the appellants FRANCISCO BENITEZ, JR. @ JIMMY and ROMEO ILUSTRISIMO are each sentenced to the penalty of reclusion perpetua, and to pay to the heirs of Ferdinand Andra, the sum of P38,000.00 as actual and compensatory damages, as well as the sum of P50,000.00 as indemnity for death. Costs against appellants.

SO ORDERED.

Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Italics supplied

[2] SEE *Peo. v. Barrios*, 122 SCRA 34 (1983); *Peo. v. Amoncio*, 122 SCRA 686 (1983); *Peo. v. Arceo*, 187 SCRA 265 (1990)

[3] SEE *Peo. v. Vengco*, 127 SCRA 242, 248 (1984)

[4] SEE *Peo. v. Vengco*, 127 SCRA 242, 249

[5] *Peo. v. Salcedo*, 172 SCRA 78 (1989)

[6] 170 SCRA 107

[7] Sec. 19 (1), ART. III, Constitution, which also says, however, that the Congress may subsequently provide for it “for compelling reasons involving heinous crimes”

[8] 170 SCRA 107, 124

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