

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PERFECTO CRISOSTOMO AND RODOLFO PANTALEON, ACCUSED-APPELLANTS.

G.R. No. 85434. May 17, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal by accused-appellants Perfecto Crisostomo and Rodolfo Pantaleon from a decision[1] dated September 1, 1987 of the Regional Trial Court of Masbate, Fifth Judicial Region, Branch 45 in Criminal Case No. 4168, the dispositive portion of which reads:

“WHEREFORE, We find the accused Perfecto Crisostomo GUILTY beyond reasonable doubt of the crime of Murder and hereby sentences him to the penalty of RECLUSION PERPETUA; to indemnify the heirs of Andrica Agbay in the sum of P40,000.00; and to pay the costs.

“We find the other accused, Rodolfo Pantaleon GUILTY beyond reasonable doubt, as an accomplice of the crime of Murder, and hereby sentences him to an indeterminate penalty ranging from EIGHT (8) YEARS, of prision mayor, as minimum, to TWELVE (12) YEARS and ONE (1) DAY of Reclusion Temporal, as maximum, and to pay the costs.”[2]

On May 30, 1983, the acting 3rd Assistant Provincial Fiscal, Jesus C. Castillo, filed an Information against accused-appellants for the crime of MURDER committed as follows:

“That on or about March 8, 1983, in the evening thereof, at barangay San Isidro, Municipality of Uson, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused conspiring and helping each other, with intent to kill, evident pre-meditation, treachery, superiority of strength and taking advantage of nighttime, did then and there willfully, unlawfully and feloniously attack, assault and stab with a double bladed dagger one Andrica Agbay, a 68 year old woman, hitting the latter on the breast, thereby inflicting wound which directly caused her instantaneous death.”[3]

Upon arraignment, both accused-appellants pleaded “NOT GUILTY” to the offense charged.

It appears on record that at around 5:00 p.m. of March 8, 1983, accused-appellants Perfecto Crisostomo and Rodolfo Pantaleon, who were both drinking and armed, chased Cesario Loyao, son-in-law of the victim Andrica Agbay, towards the direction of the latter’s house with accused-appellant Crisostomo saying to him: “You will die including your mother-in-law. (Papasyon ka namon guihapon.)”[4]

At around 6:30 p.m. of that same day, Cesario Loyao, on his way to his mother-in-law’s house in barangay San Isidro, Uson, Masbate, to tend his carabao, saw accused-appellant Crisostomo, his mother-in-law’s nephew, stab with a machete, from behind, the breast of his mother-in-law, who was then carrying a lighted torch made of coconut leaves.

During the stabbing incident, Cesario Loyao was about ten (10) meters away and noticed accused-appellant Crisostomo, armed with a machete, holding the right arm of his mother-in-law. At the same time,

accused-appellant Pantaleon, armed with a bolo, was holding his mother-in-law's left arm and the latter fell on the ground when accused-appellant Crisostomo stabbed her prompting Cesario Loyao to shout for help.

Angeles Adolfo, a neighbor of the victim who lived 20 meters away, heard the shouts of Cesario Loyao and ran towards the house of the victim. Upon reaching said place, the victim was already dead and he saw accused-appellants Crisostomo and Pantaleon jumping over the fence of the victim and thereafter fled from the scene of the crime.

Remedios Loyao, the daughter of the victim, was inside her mother's house threshing corn for milling the following day when she heard the shouts of her husband, Cesario Loyao. Immediately, she ran towards the window and saw accused-appellant Crisostomo in the act of pulling the machete from her mother's chest.

During the stabbing incident, she noticed accused-appellant Crisostomo standing behind her mother while holding the latter's right arm as he stabbed her. Likewise, she also noticed accused-appellant Pantaleon who was armed with a bolo holding her mother's left arm.

Valentine Lecciones, brother-in-law of the victim who lived 100 hundred meters away from the victim's house, also heard the shouts of Cesario Loyao and ran towards the direction of the house of the victim. Upon reaching the house, he found that his sister-in-law was already dead. He then helped Cesario Loyao and Angeles Adolfo carry the body of the victim inside the house.

Thereafter, Valentine Lecciones informed the barangay captain of the stabbing incident and the latter immediately reported the incident to the police authority.

After investigation, the police arrested accused-appellant Perfecto Crisostomo who verbally admitted stabbing the victim to death and even informed the police the hiding place of accused-appellant Rodolfo Pantaleon in a house at Morong, Cataingan, Masbate. When apprehended, accused-appellant Pantaleon likewise admitted verbally to the police his participation in the stabbing incident.[5]

A post-mortem examination of the victim was conducted in the morning of March 9, 1983 by Dr. Erlinda V. Sanchez, municipal health officer of Uson, Masbate, who stated in her autopsy report the following findings:

STAB WOUND: 1 inch wide, penetrating sternum, lateral, right side, at the level of the second intercostal space.

CAUSE OF DEATH: shock secondary to hemorrhage secondary to stab wound.

DURATION OF DEATH: more or less 16 hours.”[6]

Against the positive testimonies of the prosecution witnesses, accused-appellant Pantaleon testified that during the whole day of March 8, 1983, he was busy buying buri nipper in the house of Pastor Abilong at barangay Tagbuan, Cataingan, Masbate, which is far from barangay San Isidro and stayed there until March 9, 1983.[7] At the same time, he denied being with accused-appellant Crisostomo on that fateful afternoon since he considered the latter an enemy having killed his father sometime in 1977.[8] He also testified to a grudge that Cesario and Remedios Loyao have against him for the “clearing” he allegedly sold to Daniel Agbay, father of Remedios Loyao, in the amount of P100.00.[9]

On the other hand, accused-appellant Crisostomo testified that at around 1:00 p.m. of March 8, 1983, he was at the house of Marieta[10] Gastardo in barangay San Isidro, Uson, Masbate cooking for a birthday party of the latter's son and stayed there until the following morning of March 9, 1983 which was corroborated by Gastardo.[11]

At around 7:00 a.m. of March 9, 1983, accused-appellant was at the house of his father when Valentine Lecciones arrived and informed him that his aunt, Andrica Agbay, is dead. Immediately, he went to his aunt's place and learned from the barangay captain, Mateo Dadula, that his aunt was stabbed on the chest.[12]

Thereafter, he was told to slaughter a goat for his aunt's wake. However, upon returning to his aunt's place, there were policemen waiting for him and he was interrogated by Station Commander Victor Fajardo on why he was home and not serving his sentence. When he informed the station commander that he was released on parole in 1982, the latter did not believe him and told him to accompany him (the Station Commander) to the municipal building of Uson, where he was kept for three (3) days until he learned that a complaint was filed against him for the death of his aunt.[13]

Accused-appellant Crisostomo stated that the reason why Angeles Adolfo testified against him was because he left the latter's daughter Carolina Adolfo with whom he had a common-law relationship to go back to his legal wife.[14]

He also testified that Cesario and Remedios Loyao bore him a grudge because of their suspicion that he stole his aunt's carabao sometime in February, 1983.[15]

The contention of accused-appellants of the impossibility of their being together in killing Andrica Agbay since accused-appellant Pantaleon regarded accused-appellant Crisostomo as an enemy is without merit.

The fact that accused-appellant Crisostomo was incarcerated for killing the father of accused-appellant Pantaleon does not render improbable nor incredible the testimonies of the prosecution witnesses that they were together in the killing of Andrica Agbay. In the instant case, both Cesario and Remedios Loyao saw each of the accused-appellants hold the hands of the victim while accused-appellant Crisostomo stabbed her with his free hand. Likewise, Angeles Adolfo saw accused-appellants flee together after the killing of the victim.

The settled rule is that the findings of the trial court on the matter of the credibility of witnesses will not be disturbed on appeal in the absence of any showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case,[16] which we do find in the case at bar. Moreover, the testimonies of the prosecution witnesses are positive, straight forward and clearly revelatory only of the truth of the facts they witnessed without any dubious motive why they would bear false witness against accused-appellants.[17]

The trial court correctly rejected accused-appellants' defense of alibi in view of the clear and positive identification by the prosecution witnesses of the accused-appellants as the killers of the victim. We have always receive with caution, if not suspicion, evidence of alibi, not only because it is inherently weak and unreliable, but also because of its easy fabrication.[18]

In order for the defense of alibi to prosper, it is incumbent upon the accused-appellants to establish not only that they were at some other places at the time of the commission of the crime but that it was also physically impossible for them to have been at the place where the crime was committed. No less than the clearest proof is required to established alibi.[19]

As to accused-appellants' contention that the trial court erred in holding that there was treachery in the commission of the crime since the victim could have easily used the lighted torch which she was holding as a weapon against them, finds no support in the facts of the case.

To constitute treachery, two (2) conditions must be present, to wit: (1) the employment of means of execution that give the person attacked no opportunity to defend himself or to retaliate; and (2) the means of execution were

deliberately or consciously adopted.[20]

The records disclosed that the victim Andrica Agbay was held on both hands by accused-appellants, thereby rendering her helpless from defending herself, after which she was stabbed by accused-appellant Crisostomo from behind, hitting her on the breast. Thereafter, accused-appellant Pantaleon released his hold on Agbay's hand causing her to fall.

Considering that the accused-appellants are able-bodied males in their early thirties, fully armed while the victim is an old defenseless woman of 68 years and adopting means and methods to ensure the execution of the crime without risk to themselves arising from the defenses which the victim might take, indicate the presence of treachery.

However, We agree with the Solicitor General's observation that conspiracy is present in the case at bar, to wit:

"It is submitted that sufficient evidence exists to support a finding of conspiracy. Both appellants held the upraised hands of the victim. While in this position, Perfecto Crisostomo stabbed her from behind on the breast. The act of Pantaleon of holding the hands of the victim enabled Crisostomo to stab the victim easily and without risk. After the victim had been stabbed, both appellants scampered away when a witness shouted. The foregoing concerted acts of appellants show their common purpose or objective to kill the victim." [21]

The presence of conspiracy can be inferred from the concerted acts of both accused-appellants. The manner by which accused-appellant Pantaleon held the hand of the victim while accused-appellant Crisostomo held the victim's other hand clearly prevented the latter from defending herself and without which act the crime would not have been accomplished, makes accused-appellant Pantaleon a conspirator.

Where accused-appellants by their concerted and cooperative acts aimed at the same object, one performing one part and the other performing another part, all geared for the accomplishment of the same objective, indicating closeness of personal association and concurrence of sentiments, conspiracy exists and the act of one is the act of all [22] and both should suffer the same penalty of reclusion perpetua.

WHEREFORE, finding accused-appellant Rodolfo Pantaleon guilty beyond reasonable doubt as a principal in the crime of murder, he is hereby sentenced to the penalty of reclusion perpetua. As for accused-appellant Perfecto Crisostomo, the appealed decision is hereby AFFIRMED with the modification that the civil indemnity for both accused-appellants is increased to P50,000.00 in accordance with existing jurisprudence.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Penned by Executive Judge Protacio C. Sto. Tomas.

[2] Original Records, p. 125.

[3] Rollo, p. 3.

[4] T.S.N., October 10, 1983, at p. 6.

[5] Rollo, p. 18.

[6] Exhibit "A".

[7] T.S.N., July 26, 1984, at pp. 2-3.

- [8] Id., at p. 9.
- [9] Id., at p. 8.
- [10] Referred as “Dioleta” in the January 10, 1985 T.S.N. of accused-appellant Crisostomo.
- [11] T.S.N., February 18, 1985, at pp. 3-5.
- [12] T.S.N., January 10, 1985, p. 45.
- [13] Id., at pp. 46-48 and pp. 52-54.
- [14] Id., at p. 49.
- [15] Id., at p. 50.
- [16] *People vs. Baduya*, 182 SCRA 57 (1990).
- [17] *People vs. Santito, Jr.*, 201 SCRA 87 (1991).
- [18] *People vs. Rañola*, G.R. No. 95757, 212 SCRA 106 (1992).
- [19] *People vs. Flores*, G.R. No. 98069, January 27, 1993.
- [20] *People vs. Mabubay*, 185 SCRA 675 (1990).
- [21] Rollo p. 87.
- [22] *People vs. Bausing*, 199 SCRA 355 [1991].

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