

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN CRUZ Y DELAMIDA, JR., DEFENDANT-APPELLANT.

G.R. No. 86217. October 31, 1990

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The accused Ruben Cruz, Jr. together with four others were charged with Robbery with Homicide (P.D. 532, The Anti-Highway Robbery Act) in an Information which reads:

"That on or about the 4th day of March 1987 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping with one another, with intent to gain and with intent to kill by means of violence and intimidation, that is by pointing and stabbing with bladed weapons against the persons of Rosita Tan y Olesco and Cleofe Tojino y Santos, did then and there wilfully, unlawfully and feloniously take, rob and carry away jewelries and cash money in the amount of P25,000.00, belonging to said victims, while they were on board a passenger jeep travelling along Fortune 1, Angeles St., Valenzuela, Metro Manila; that on the occasion of the said robbery and for the purpose of enabling them to take, rob and carry away the aforementioned articles, the herein accused in pursuance of their conspiracy, did then and there wilfully, unlawfully and feloniously stab Cleofe Tojino y Santos on the right chest, thereby inflicting upon the latter serious physical injuries which injuries caused her death." (Orig. Records, p. 1)

The four other accused being at large, only Ruben Cruz was arraigned. With the assistance of his counsel, he pleaded not guilty to the charge. Trial proceeded and a judgment conviction was rendered against him on April 29, 1988. The dispositive portion of the decision reads:

"ACCORDINGLY, finding accused Ruben Cruz y Delamida, Jr. Guilty beyond reasonable doubt of the offense charged, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA.

"The accused is hereby ordered to pay the heirs of the victim the sum of P35,000.00 for the wake and funeral expenses of deceased Cleofe Tojino and to indemnify the heirs of deceased Cleofe Tojino the amount of P30,000.00 (People v. Dela Fuente, G.R. No. 63251-52, Dec. 29, 1983)." (Orig. Records, p. 155)

The antecedent facts of the case are narrated in the People's Brief as follows:

"At about 8:00 o'clock in the evening of March 4, 1987 Romeo Castañeda was at the Karuhatan market. He went to that place to fetch his wife (p. 4, TSN, April 1, 1987). After he had fetched his wife, they proceeded to the jeepney station at a corner street near the Karuhatan market. While they were waiting for a passenger jeepney, a man (later on identified as appellant Ruben Cruz, Jr., p. 10, TSN, April 1, 1987) approached Romeo Castañeda to have his (appellant's) cigarette lighted. Romeo Castañeda let appellant lit his cigarette. They looked intently at each other, 'nagtitigan kami' (p. 5, TSN, April 1, 1987). Thereafter, a passenger jeepney arrived. Romeo Castañeda, his wife and their child boarded the jeepney. Appellant and his companions also boarded the same vehicle (p. 6, TSN, April 1, 1987). Appellant sat at the rear left side near the door of the jeepney. Romeo Castañeda sat beside a woman passenger named Cleofe, known to him because she was his

former neighbor (p. 7, TSN, April 1, 1987). While the jeepney was running, a man said, 'Stop, this is a holdup' 'Tigil, holdup ito' (p. 8, TSN, April 1, 1987) Appellant drew out a bladed weapon or balisong. He then took the personal effects of the passengers (p. 11, TSN, April 1, 1987). Appellant had four companions at that time. Out of these five persons, Romeo Castañeda could identify three of them (p. 11, TSN, April 1, 1987).

"The robbers alighted after they had taken the personal belongings of the passengers. Appellant was the first one to alight. (pp. 13-14, TSN, April 1, 1987). The driver of the jeepney chased the five holduppers, but he was not able to apprehend them because they turned towards an alley where there was an open gate. Then, Cleofe fell on the floor of the jeepney. Romeo Castañeda tried to support her with his hands. The jeepney driver asked Romeo Castañeda to lift Cleofe. Romeo Castañeda said 'Pare may tama ito' meaning that Cleofe sustained wounds. Cleofe was brought to the house of her relative (pp. 14-15, TSN, April 1, 1987). Romeo Castañeda was not able to see exactly Cleofe's wounds, but he saw that blood was oozing from her upper abdomen. Cleofe was brought by her relative to the hospital (pp. 15-16, TSN, April 1, 1987).

"There was light coming from a store at the place where appellant asked that his cigarette be lighted. And in the very spot where the holdup was committed there was also light coming from the Meralco post (p. 18, TSN, April 1, 1987). Romeo Castañeda came to know that Cleofe died. He attended her wake. (p. 19, TSN, April 1, 1987). In connection with this case, Romeo Castañeda was investigated by the police. He gave a written statement (Exhibits "B", "B-1", "B-2", "B-3").

"Patrolman Antonio Sandig, a police investigator of the Valenzuela Police Station, reported for duty on March 4, 1987. His tour of duty was from 8:00 o'clock in the evening up to 8:00 o'clock in the morning (p. 5, TSN, July 15, 1987). On that date, while he was at the police station, Reynaldo Dimas, driver of a public utility jeepney (PUJ) reported a case of robbery with homicide which occurred in Angeles St., Gen. T. de Leon, Valenzuela, Metro Manila (p. 6, TSN, July 15, 1987). Dimas informed Pat. Sandig that the victim was brought to the Fatima Hospital. Pat. Sandig went to the Fatima Hospital, and from there, he proceeded to the scene of the incident and conducted an ocular inspection. He found that the place of the incident was lighted (p. 7, TSN, July 15, 1987). When he returned to the police station, he investigated the driver and some of the passengers of the jeepney. Driver Reynaldo Dimas gave a written statement (Exhibits "C-", "C-1") (pp. 8-9, TSN, July 15, 1987). The next day, March 5, 1987, Pat. Sandig made a follow-up. He interrogated witnesses. A passenger named Romeo Castañeda stated that he knew one of the holduppers. Pat. Sandig asked Castañeda to accompany him to the place of the incident to find out if there were other persons present thereat. They did not find any other persons at the scene of the incident. Pat. Sandig returned to the police station (pp. 11-12, TSN, July 15, 1987). When Pat. Sandig was already at the police station, an informant called him up. Pat. Sandig was told that the informant had seen one of the holduppers. Pat. Sandig, accompanied by Pat. Guevarra and Pat. Aguinaldo, went to the place where one of the holduppers was seen by the informant. When they arrived at that place, Romeo Castañeda pointed to one of the holduppers who, right then and there, was apprehended by the policemen. The arrested person was brought to the Valenzuela Police Station (pp. 11-12, TSN, July 15, 1987). At the police station, Pat. Sandig organized a police line-up which consisted of five (5) persons. Out of the five (5) persons in the police line-up, Romeo Castañeda positively pointed to one of the holduppers. Pat. Sandig talked to the person pointed to and when asked about his name, he answered Ruben Cruz, Jr., Pat. Sandig informed Romeo Castañeda that the person whom he (Castañeda) pointed to, identified himself as Ruben Cruz, Jr. (appellant herein) (pp. 12-13, TSN, July 15, 1987) Pat. Sandig investigated appellant. Appellant told Pat. Sandig that he (appellant) was one of the holduppers. According to appellant he had with him a balisong or fan knife and that he was one of those who poked the knife at the passengers and took their jewelry, cash money and other belongings. Pat. Sandig's investigation of appellant was not reduced to writing. Appellant refused to give a statement because he had no lawyer (pp. 14-15, TSN, July 15, 1987).

"At around 1:30 a.m. of March 5, 1987, Dr. Mariano B. Cueva, NBI Medico-Legal Officer conducted an autopsy on the body of the deceased Cleofe Tojino. Autopsy Report No. N-87-609 (Exhibits "C-", "C-1, "C-2", "C-3" and "C-4) (p. 23, Record), states:

"POSTMORTEM FINDINGS

"Pallor, severe and generalized.

"Contused abrasion, 1.0 x 4.0 cm., mid-posterior lumbar region.

"Stab wound, 2.5 cm. long, spindle shaped, oriented horizontally, medial extremity sharp, opposite extremity contused, edges clean-cut and gaping; located at lower mammary region, chest, right side, 5.0 cm. from anterior median line, level of 6th intercostal space; path of wound is directed backward, upward and medially, grazing the lower border of 5th rib, piercing the pericardium and partly severing the pulmonary artery, esophagus, and thoracic aorta; approximate depth, 14.0 cm.

"Hemopericardium, 250 c.c.

"Hemothorax: right side, 800 c.c.; left side, 1,300 c.c.

"Heart and its big vessels, almost empty of blood.

"Brain and other visceral organs, moderately pale.

"Stomach, contains small amount of bloody fluid.

"CAUSE OF DEATH: Hemorrhage secondary to a stab wound, chest." (Appellee's Brief, pp. 3-9)

Professing his innocence of the crime, the accused maintains that the trial court committed the following errors in the evaluation of his case:

I

THE TRIAL COURT BELOW ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF THE UNNATURAL AND QUESTIONABLE LONE TESTIMONY OF ROMEO CASTAÑEDA.

II

THE TRIAL COURT BELOW ERRED IN CONVICTING THE ACCUSED BASED UPON A MERE ASSUMPTION THAT THERE WAS CONSPIRACY DESPITE THE FACT THAT SAID CONSPIRACY WAS NOT PROVED AS PROVIDED BY THE RULES.

III

THE TRIAL COURT BELOW ERRED IN CONVICTING THE ACCUSED UPON THE WEAKNESS OF THE DEFENSE AND NOT BASED UPON THE STRENGTH OF THE EVIDENCE OF THE PROSECUTION." (Rollo, pp. 83-84)

The errors assigned by the accused-appellant are inter-related and narrow down to the basic issue of credibility of the prosecution witnesses. We shall, therefore, discuss the issues jointly.

Ruben Cruz contends that the testimony of prosecution witness Romeo Castañeda is replete with contradictions and is very unnatural in many respects so that the same should not be given credence.

The appellant's contention is not supported by the records.

The accused claims that it would be unnatural for him to request a light for his cigarette from a person who would board the same jeepney which he and his companions intend to sack as that would risk recognition on their part. There is nothing unreal about the appellant's act because when he asked for the light he did not know that he and Castañeda would be taking the same ride.

This alleged inconsistency in the testimony of the witness is in the nature of a minor detail. It does not affect the integrity of the witness' testimony. It is well-settled that inconsistencies on minor details do not affect credibility as they refer only to collateral matters which do not touch upon the commission of the crime itself. (*People v. Alegria*, G.R. No. 86455, September 14, 1990; *People v. Verzo*, 65 SCRA 324 [1975]).

What is material is that he was recognized by the witness Romeo Castañeda as one of the perpetrators of the crime. There was sufficient light in the jeepney coming from a nearby Meralco post which enabled the witness to recognize the people inside, the accused specifically. Moreover, buses and jeepneys are required to light their insides when transporting paying passengers.

The other alleged inconsistencies are not material insofar as the innocence or guilt of the appellant is concerned.

The fact that a co-passenger Rosita Tan did not recognize or refused to recognize any of the holduppers does not detract from Castañeda's credibility. Either Tan did not attempt to look carefully at the malefactors while being robbed or she did not want to get involved as an eye-witness. The remark that "the four of them alighted" when there were supposed to be five is also a minor discrepancy. The witness was not pressed to explain the statement. The failure to state the exact date when a supposed relative, Mang Narding, came to see him has no bearing at all on whether or not the appellant was one of the holduppers.

The fact that the eye-witness is a mere laborer is no proof that he was a paid witness. And his entering a toilet together with the lawyer and father of the victim cannot lead to any presumption that he was paid inside the toilet.

The accused failed to discredit the key witness. As the trial court pointed out, the witness was emphatic about the details of the incident when he was narrating them. The recognition of the accused as one of the perpetrators "was unflinchingly established by the witness whose credibility the defense failed to assail." Neither has the defendant-appellant convincingly shown any ill-motive on the part of the prosecution witness to falsely testify against him (*People v. Vocente and Salbino*, G.R. No. 80533, July 30, 1990; *People v. Sarmiento*, 64 SCRA 350 [1975]).

From the records, we can see that the said witness showed no hostility but only an interest in bringing the malefactors to justice (*People v. Mandal*, G.R. No. 87959, August 13, 1990).

The accused himself admitted that he did not know Romeo Castañeda prior to the incident. There was neither quarrel nor misunderstanding between them. The accused-appellant's insinuation that said witness testified for money is not borne by the records. He has not substantiated his claim to merit any consideration.

The testimony of witness Castañeda was corroborated by Pat. Sandig who testified that Castañeda was able to positively pinpoint the accused as one of the holduppers during the police line-up.

The defense of appellant hinges primarily on alibi which, as we have repeatedly declared, is one of the weakest defenses that may be invoked by an accused. We rule once again that for this defense to prosper, it is not enough to prove that the accused was somewhere when the crime was committed but that he must also demonstrate that it was physically impossible for him to have been at the scene of the crime. It cannot prevail over the positive identification by prosecution witnesses. It is an issue of fact that hinges on the credibility of the witnesses who seek to establish it. (*People v. Arceo*, G.R. No. 88324, July 6, 1990 citing *People v. Coronado, et al.*, 145 SCRA 250 [1986]). There is no physical impossibility existing since the place where the accused claims he was at the time of the commission of the crime is also within the barangay in Valenzuela where the public market is located. The accused himself admitted that it took only about fifteen (15) minutes by passenger jeepney to negotiate the said distance.

The Court has invariably decreed that alibi cannot prevail over the positive identification of the accused as the perpetrator of the crime. (People v. Lingao, 75 SCRA 130 [1977]; People v. Ampo-an, et al., G.R. No. 75366, July 4, 1990; People v. Atencio, 156 SCRA 242 [1987]). There is no reason why the rule should not be applied in this case.

The appellant's claim of maltreatment is uncorroborated and self-serving. Even assuming that it has some basis, it would be a ground for charges against the police officers, not an argument for acquittal. No written confession or any kind of extra-judicial admission was extracted from him that would be prejudicial to his defense.

The fact of conspiracy has been well-established. One of the appellant's companions announced the hold-up while the rest took the personal effects of passengers. The appellant, according to the witness drew out the bladed weapon and proceeded to rob the passengers as well. The group acted in concert in a well-rehearsed or oft repeated manner.

Concert of action at the moment of consummating the crime and the form and manner in which assistance is rendered to the person inflicting the fatal wound may determine complicity where it would not otherwise be evidence. (People v. Yu, 80 SCRA 382 [1977]).

While witness Castañeda did not see the actual stabbing of the victim by the appellant himself, the participation of the accused in the robbery which resulted in the death of the victim is definitely established.

In the last analysis, the basic consideration centers around the credibility of witnesses in respect of which the findings of the trial court are entitled to great weight as it was in a superior position to assess the same in the course of the trial (People v. Salvilla, et al., G.R. No. 86163, April 26, 1990 citing People v. Ornoza, 151 SCRA 495 [1987]; People v. Alcantara, 151 SCRA 326 [1987]; People v. Sarile, 71 SCRA 593 [1976]).

WHEREFORE, in view of the foregoing, the judgment appealed from is hereby **AFFIRMED** with the modification that the civil indemnity is increased from P30,000.00 to P50,000.00 in accordance with recent decisions of this Court. (See People v. Alegria, G.R. No. 86455, September 14, 1990; People v. Sazon, G.R. No. 89684, September 18, 1990).

SO ORDERED.

Fernan, C. J., (Chairman), and Bidin, J., concur.
Feliciano, J., on leave.

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