

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUFINO SAGUN, JR. AND JIM SAGUN, ACCUSED, RUFINO SAGUN, JR. ACCUSED-APPELLANT.

G.R. No. 86816. May 14, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

We uphold the judgment of the Regional Trial Court of San Carlos City, Pangasinan, Branch 56,[1] convicting Rufino Sagun, Jr. of the crime of Murder and sentencing him to suffer “life imprisonment.”

The evidence for the prosecution discloses that at about 9:30 o’clock in the evening of 30 June 1982, prosecution witnesses, Joseph Camacho and Rafael Gabriel, with one Alfredo Roque, went to San Gabriel I, Bayambang, Pangasinan, to attend a pre-nuptial dance at the house of a townmate who was to be married the following day. Thereat, they saw from a distance the victim Lito Roque, who had arrived earlier. Not long after, they saw Appellant Rufino Sagun, Jr. and Jim Sagun stare, point at, and approach the victim (TSN, 25 July 1984, pp. 32-32-A). Without warning, Jim Sagun boxed the latter on the face causing him to fall flat on the ground facing upward (TSN, 13 June 1984, p. 15). As the victim endeavored to stand up, Appellant Rufino stabbed him once in the abdomen with a “balisong” (ibid., pp. 47-48). Appellant and Jim Sagun fled thereafter (ibid., p. 46).

Witness Camacho carried the wounded victim to his brother Jesus Roque who, in turn, rushed his hurt kin to a Medical Center. On 4 February 1982, the victim passed away due to internal hemorrhage caused by the perforation of his large intestines and toxemia (Exhibit “C”).

On the basis of sworn statements of witnesses Camacho and Gabriel, executed on 23 February 1982, a criminal Complaint was filed against Appellant and Jim Sagun on the same date, 23 February 1982 (Orig. Records, p. 4).

The records disclose that Appellant had fled and concealed himself in Manila and was apprehended only some time in 1985. The Information was thus filed against Jim Sagun alone on 20 October 1982 (Original Records, p. 1). He was arraigned on 11 November 1982 and pleaded “not guilty” (ibid., p. 47). After Appellant’s arrest, the Information was amended on 20 September 1985 (ibid., p. 436), to include Appellant and the charge of conspiracy. Upon arraignment on 2 October 1985, he also entered a negative plea.

For his part, Appellant Rufino Sagun, Jr., 27, declared that on the date and hour involved, he was in Manila, specifically, at a canteen on Sampaguita Street, De Castro Subdivision, Pasig, Metro Manila, drinking beer with a friend Jimmy Ang, 34. The latter corroborated that testimony stating that he and Appellant used to work in the same company, the Universal Textile Mills, and that they used to meet each other during pay days, e.g., 30 January 1982, the date of the incident involved.

The Trial Court gave more credence to the prosecution version and decreed:

“WHEREFORE, finding accused Rufino Sagun guilty beyond reasonable doubt of the crime of murder pursuant to Article 248 of the Revised Penal Code, he is hereby sentenced to suffer LIFE IMPRISONMENT, it

appearing that there are no mitigating or aggravating circumstances.”

“It appearing that the prosecution had not alleged nor proved damages sustained by the heirs of the deceased, the court makes no pronouncement as to damages.”

Notably, the judgment did not include accused Jim Sagun. This was because on 19 December 1988 the Trial Court had issued an Order reading: “considering that accused Jim Sagun is still at large, the promulgation of the decision against him is hereby deferred (Original Records, p. 874).

In this appeal, Appellant faults the Trial Court for having given full faith and credence to the testimonies of prosecution witnesses.

We find no reversible error.

Prosecution witnesses, Camacho and Gabriel, were straightforward and categorical in their testimonies. No ill motive has been imputed to them to testify falsely against Appellant. Nor were they shown to have had any grudge or ill feeling against him. They were only at a distance of about two (2) meters from where the criminal assault was committed and witnessed clearly what had transpired, specially since there were lights proceeding from the dance hall (TSN, 13 June 1984, p. 17). They could even tell that at the time of the assault, the victim was standing with his hands in his pockets. Neither one could have been mistaken as to the identity of the assailants as said witnesses had individually known each of them for some time before the incident (TSN, 14 May 1986, p. 79; 10 October 1988, p. 60).

The defense, however, makes capital of the fact that Pat. Simon Montera, the investigator and the police officer on duty at the time of the incident, testified that on 30 January 1982, the assailant could not be identified. If that were so, Appellant concludes, then the testimonies of prosecution witnesses, Camacho and Gabriel, cannot be given credence because if they had, in fact, witnessed the commission of the crime, they could have informed the authorities concerned as well as the brother of the victim, Jesus, soon after the incident (Rollo, pp. 85-86; Brief for the Accused-Appellant, pp. 3-4).

It is not unusual, however, for witnesses to a crime to exhibit reluctance in getting involved in the prosecution of offenses. This is a matter of judicial notice (*People vs. Pacabes*, G.R. No. 55417, 24 June 1988, 137 SCRA 158; *People vs. Coronado*, G.R. No. 68932, 28 October 1986, 145 SCRA 150).

Besides, there is evidence to show that even before the execution of his sworn statement on 23 February 1982, witness Gabriel had already been investigated by the same Pat. Simon Montera in the witness' house at San Gabriel II, Pangasinan. On that occasion, Gabriel had already revealed the names of Appellant and Jim Sagun as the culprits (TSN, 24 October 1988, pp. 123-124).

And as far as inconsistencies in the individual testimonies of Gabriel and Camacho are concerned, they refer to non-crucial details and, consequently, cannot detract from their overall credibility (*People vs. Delawin*, G.R. Nos. 73762-63, 27 February 1987, 148 SCRA 257). Thus, although in his Affidavit (Exhibit “B”) Gabriel stated that Jim Sagun and the victim fought with each other, in open Court, he stated that there was no such fighting (TSN, 24 October 1988, pp. 107-108). This inconsistency does not necessarily discredit Gabriel. “Generally, an affidavit is not prepared by the affiant himself but by another who uses his own language in writing the affiant's statements. Omissions and misunderstandings by the writer are not infrequent particularly under circumstances of hurry or impatience. For this reason, the infirmity of affidavits as a species of evidence is much a matter of judicial experience” (Regalado, *Compendium on Evidence*, Vol. II, p. 559, citing *People vs. Mariquina, et al.*, 46 OG 6053; *People vs. Mendoza, et al.* G.R. No. L-33127, 15 July 1981). Also, an “affidavit x x x will not always disclose the whole facts, and will oftentimes and without design incorrectly describe, without the deponent

detecting it, some of the occurrences, narrated x x x “ (People vs. Andaya, G.R. No. 63862, 31 July 1987, 152 SCRA 570 citing People vs. Tan, 89 Phil. 337, 1951).

Marshalled against the unwavering testimonies of prosecution witnesses, Appellant’s defense of alibi cannot prosper and was correctly rejected by the Trial Court. Not only is alibi the weakest of defenses; it is also unavailing in the face of positive identification (People vs. Tan, Jr., G.R. No. 53834, 24 November 1986, 145 SCRA 614).

In the final analysis, the basic issue is one of credibility and it is well-settled that the findings of the Trial Court on this point are entitled to great weight and respect and will generally not be disturbed on appeal unless it is shown that said Court had overlooked certain facts of substance and value which, if considered, might affect the outcome of the case (People vs. Jardiniano, G.R. No. L-37191, 30 March 1981, 103 SCRA 530, and a host of other cases). The present case does not fall under any of the exceptions.

All told, the Trial Court did not err in finding Appellant guilty beyond reasonable doubt of the crime of Murder. He should be sentenced to reclusion perpetua,[2] however, that being the penalty prescribed by law and not “life imprisonment” as imposed by the Trial Court.

WHEREFORE, the judgment appealed from is hereby AFFIRMED except that accused-appellant, Rufino Sagun, Jr., should pay civil indemnity to the heirs of the victim in the amount of P30,000.00 in line with existing jurisprudence. He shall also pay one-half of the costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Judge Victor T. Llamas, Jr., presiding.

[2] In consonance with the majority opinion in People vs. Millora, et al., G. R. Nos. L-38968-70, 2 February 1989, although this “ponente” maintains her dissent in the said case.

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