

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TOM CHANAS Y PITAN, ACCUSED-APPELLANT.

G.R. No. 90802. August 04, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is an appeal from a judgment[1] of the court a quo finding the accused TOM CHANAS y PITAN guilty of Highway Robbery with Homicide defined and penalized under P.D. 532 and imposing upon him a prison term of reclusion perpetua. He is also directed "to indemnify the heirs of deceased Edwin Sarol the sum of x x x P60,000.00 x x x for his death; x x x victim Marina Benos the sum of x x x P20,000.00 as actual damages, and x x x P20,000.00 x x x for her injuries; x x x victim Alfonso Malicdan the sum of x x x P20,000.00 x x x as moral damages for his injuries; all without subsidiary imprisonment in case of insolvency, and to pay the costs." [2]

Specifically, on September 22, 1988, the accused Tom Chanas y Pitán and a certain John Doe were charged in an Information which alleges -

"That on or about the 2nd of August, 1988, at Km. 73, along the Halsema National Highway, Amgaleyguey x x x Buguias x x x Benguet x x x the above named accused conspiring, confederating and mutually aiding each other, with intent of gain, did then and there wilfully and unlawfully, with the use of firearms, apply force, violence and/or intimidation upon the persons of MARINA BENOS y AWISAN, ALFONSO MALICDAN and EDWIN SAROL and, immediately thereafter forcibly take, and carry away cash money amounting to TWENTY THOUSAND PESOS (P20,000.00), Philippine Currency, original registration of a vehicle and a driver's license, belonging to Marina Benos y Awisan, to her damage and prejudice.

"That by reason of and on the occasion of the robbery, the same accused, conspiring, confederating and mutually aiding each other, with intent to kill, did then and there, wilfully and unlawfully shoot Alfonso Malicdan on his jaw inflicting injuries on his person and likewise inflict multiple gunshot wounds upon Edwin Sarol which caused the latter's death immediately thereafter.

"CONTRARY TO LAW."

The version of the prosecution is that on August 2, 1988, at about midnight, after having sold their vegetables at the public market of Baguio City, the spouses Jaime and Marina Benos loaded their truck, an ELF Mazda with Plate No. NJL-170, with groceries, fertilizers, cement and other dry goods to be sold at Abatan, Bauko, Mt. Province. Accompanied by their driver Edwin Sarol and neighbor Alfonso Malicdan, Jaime Benos drove the truck after allowing his driver Edwin to rest on top of their merchandise. Marina sat beside Jaime, while Alfonso stayed on the right of Marina.[3]

Midway home, at Km. 50, they took dinner. Before reaching Km. 73, Jaime, then feeling sleepy and tired, transferred to the cargo side of the truck and asked Edwin to take over the wheels.[4]

At around 9:00 o'clock that evening, as they approached Km. 73, Edwin stopped the truck as big stones blocked the highway.[5] Suddenly, two men appeared a few meters in front of the truck. One of them was identified as

appellant Tom Chanas because the headlights of the truck were on. Appellant Chanas then went to the left side with his face covered with a handkerchief below his eyes and poked his gun at the head of Edwin Sarol. Chanas' companion who was also covering his face with a handkerchief, took to the right of the truck and pointed his gun at Alfonso. Both Chanas and his companion simultaneously announced a holdup and demanded money from the occupants of the truck. When Alfonso said that they had no more money as they spent it in the purchase of the goods now loaded in their truck, the gunmen fired hitting driver Edwin on his right eye and Alfonso on his jaw. Horrified, Marina immediately handed her bag containing P20,000.00 cash and personal documents to Chanas. After wresting the bag, the holduppers fired again hitting Marina on her back before they fled on foot.[6]

When the highway robbers vanished from view, Jaime, who sought cover at the back of the truck during the shooting, drove to the nearest hospitals. A few meters from the scene, they passed by a parked International Loadstar freight truck with Plate No. ABE-796 loaded with empty bottles of Coke. Jaime stopped his vehicle but found no one inside the truck except cases of empty bottles. He then drove to Lutheran Hospital in Buguias, Benguet. Edwin was pronounced dead on arrival, while Marina and Alfonso were treated for their gunshot wounds. Jaime then reported the incident to the police at Buguias, Benguet.[7]

Disavowing any knowledge of, much less participation in, the fatal incident on the part of accused Tom Chanas, the defense through appellant himself, together with Tirso Heron and Pedro Bestre, portrayed an ordinary and innocuous night for Tom Chanas on August 2, 1988. Appellant's story is that at around 4:00 o'clock in the afternoon of that day, he and his helper Tirso Heron arrived at the Coca-Cola warehouse at Abatan, Buguias, on board a truck driven by him and loaded with softdrinks. They came from Carlatan, San Fernando, La Union. After the unloading which took about an hour, they piled cases of empty bottles into the truck. The manager of the warehouse then invited them to a drinking party until 9:00 o'clock that evening. Immediately after, appellant and his helper left for Abatan, which is about a kilometer from the warehouse, where they took dinner. At about 9:30 that evening, they left for Baguio City.[8]

On August 9, 1988, while appellant was on a regular trip to Abatan, the driver of an ELF truck flagged him down so he stopped and parked his truck. The driver asked him if he made a trip on August 2, 1988, and he replied in the affirmative. He gave his name and allowed his trip tickets to be inspected by that driver.[9]

On August 13, 1988, at about 11:30 in the morning, a policeman at the Naguilian check point, Baguio City, stopped appellant. After verifying his identity, appellant was brought to the underground room of the "check point", while his three companions were left outside. A certain Capt. Delson arrived with Jaime Benos. While appellant was being questioned by Capt. Delson, Marina Benos and Alfonso Malicdan arrived. They were asked whether it was appellant who attempted to kill them, but they remained silent. Later, however, after going out of the room, the Benos spouses, Alfonso Malicdan and Capt. Delson returned and said that appellant was the perpetrator of the fatal heist of August 2, 1988.[10]

Pedro Bestre, a Municipal Councilor of Buguias, Benguet, testified that on August 2, 1988, at about 9:20 in the evening, while on his way home from church at Abatan, he passed by a restaurant some 350 to 400 meters away. There he saw appellant eating with a companion. Bestre knew appellant because the latter usually parked in front of the former's house. Bestre also testified that travel time by vehicle from the scene of the incident at Km. 73 to Km. 85 at Abatan, would take about an hour, and at that time the road was muddy because of rain and the road widening.[11]

After trial, the court a quo sustained the version of the prosecution and rendered judgment on October 30, 1989, finding appellant guilty beyond reasonable doubt of the crime charged and sentenced him accordingly.

In this appeal, appellant Tom Chanas contends that the trial court ERRED in (1) finding that he was positively

identified; (2) rejecting his defense of alibi and in not giving weight to the testimonies of his witnesses; and, (3) giving credence to the testimonies of the prosecution witnesses despite inconsistencies and discrepancies.

The contentions of the defense are utterly without merit.

As regards the first assigned error, Marina Benos categorically and positively pointed to appellant as the person who, in the company of John Doe, robbed her and fired successive shots at them resulting in physical injuries to her and Alfonso Malicdan, and the death of Edwin Sarol. While it may be true that the incident took place at night, the headlights of the truck of the Benoses were however bright, and appellant and his cohort were clearly visible as they approached the victims. Thus, Marina had a good chance of looking particularly at the face of appellant Chanas. On direct examination, she testified -

"Q. This Tom Chanas whom you mentioned, if you see him again, will you be able to identify him?

A. Yes, sir.

Q. If he is in the courtroom can you point to him?

A. Yes, sir.

Q. Please point to him.

A. He is there sitting (witness pointing to a person inside the courtroom who identified himself as Tom Chanas).

x x x x

Q. Now, when you heard the shots made by Tom Chanas, what happened?

A. I just kept quiet and I said, 'Kuarta, adds ditoy' (The money is here). And I gave them my bag.

Q. To whom did you give your bag?

A. To the person at my left side.

Q. And you are referring to . . . ?

A. Tom Chanas."[12]

On cross examination, Marina even made clearer her recollection of the incident and her identification of appellant Chanas -

"Q. Madam witness, are you saying that the lights of the vehicle in front were on?

A. Yes, sir, the headlights.

Q. You were saying therefore that the two persons came from the front of your vehicle, not from the side?

A. Yes, sir. From the front.

x x x x

Q. How far were they from your vehicle the first time you saw these two persons?

A. From the block, about 10 to 20 meters. They walked towards us.

x x x x

Q. Can you tell us then how you were able to recognize that the man with the handkerchief on his face one

meter away from you is (sic) Tom Chanas if his face, at least one-half of it was covered by a handkerchief?

A. When they were approaching us, I looked at his face. As they were approaching us I saw them already. They did not have their masks on yet. As they were nearing us, that was the time they put on their masks.”[13]

The positive identification of appellant Tom Chanas and his companion as the perpetrators of the crime was consistently corroborated on all material points by another prosecution witness, Alfonso Malicdan, who was seated on the right of Marina during the robbery holdup. Malicdan testified that Chanas and his conspirator fired shots at them hitting him, Marina and Edwin. Edwin died as a result.

We are thus in full accord with the observations of the Solicitor General -

"For his part, accused-appellant Tom Chanas miserably failed to cast doubt upon his being positively identified as one of the authors of the crime charged. True it is, accused-appellant Tom Chanas raised questions on credibility of prosecution witnesses, but nonetheless, he failed to discredit or impair the positive testimonies made on him by Mrs. Marina Benos and Alfonso Malicdan. For verily, their testimonies taken in their entirety had not been shown to contain any material inconsistencies and contradictions as to affect the reliability of their testimonies (People v. De la Cruz, 148 SCRA, 582; People v. Narajos, 149 SCRA 99). Equally noteworthy, no ulterior motives to falsely testify against accused-appellant Tom Chanas were imputed to these witnesses. At bottom, the fact remains that Mrs. Benos and Malicdan were both able to plainly recognize accused-appellant as he was clearly focused and brightly illuminated by the lights coming from the headlights as accused-appellant was approaching the truck where Mrs. Benos and Malicdan were riding. All these factors indubitably point to the credibility of the prosecution witnesses' positive identification of accused-appellant as the culprit (People v. Perez, 102 SCRA, 352; People v. Menzures, 113 SCRA 609)."[14]

As regards his alibi, appellant Chanas maintains that at the time of the incident he was in Abatan, Buguias, Benguet, which is about 12 kilometers from Km. 73 where the crime was committed. But, it is well-settled that alibi cannot stand against the positive identification of a credible witness.[15] Positive identification of the accused by the witnesses that he killed the victim establishes the guilt of the accused to moral certainty.[16] In order to prosper, alibi must be convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of the commission.[17] In the case before Us, We fully agree with the court a quo when it rejected the defense of alibi, thus –

"Even assuming that accused rested 1-1/2 hours after arriving at 4:00 p.m. in Abatan warehouse and therefore started unloading the filled bottles of Coke by 5:30 p.m., still, they, the accused and his companion, with the help of the personnel in the warehouse, would have enough time to unload their cargo, then load the empty bottles of Coke, eat supper, and proceed thereafter with their truck to the place of the commission the crime. This is (sic) not physically impossible considering that Abatan, Buguias, Benguet, where the warehouse is located, is only 12 kilometers away from Kilometer Post 73 where the crime was committed and accused has (sic) almost 5 hours allowance from 4:00 p.m., when he arrived in Abatan, to 9:00 p.m. when the crime was committed and a big truck to move from one place to another.”[18]

The second and third assigned errors deal principally with the credibility of witnesses. Appellant faults the trial court for giving full credence to the testimonies of the prosecution witnesses. But We find no reason to distrust the holding of the court a quo.

There is no question that when the main thrust of the appeal is on the credibility of the prosecution witnesses, and appellant fails to demonstrate why We should depart from the cardinal principle that findings of fact of the trial court should not be disturbed, the same should be respected on appeal due to the superior advantage of the lower court in observing the conduct and demeanor of witnesses while testifying unless some fact or circumstance which could affect the result of the case may have been overlooked.[19]

Finally, We find no error in the conviction of appellant by the trial court for Highway Robbery with Homicide under P.D. 532, otherwise known as the "Anti-Piracy and Anti-Highway Robbery Law of 1974," the pertinent provisions of which follow:

"Sec. 2. Definition of terms. - The following terms shall mean and be understood as follows: x x x x

c. Philippine Highway. - It shall refer to any road street, passage, highway and bridges or other parts thereof, or railway or railroad within the Philippines used by persons, or vehicles, or locomotives or trains for the movement or circulation of persons or transportation of goods, articles, or property or both.

x x x x

e. Highway Robbery/Brigandage. - The seizure of any person for ransom, extortion or other unlawful purposes, or the taking away of the property of another by means of violence against or intimidation of persons, or force upon things or other unlawful means, committed by any person on any Philippine highway.

Sec. 3. Penalties. - Any person who commits x x x highway robbery/brigandage as herein defined shall upon conviction by competent court be punished by: x x x x

b. Highway Robbery/Brigandage. - The penalty of reclusion temporal in its minimum period shall be imposed. If physical injuries or other crime are committed during or on the occasion of the commission of robbery or brigandage, the penalty of reclusion temporal in its medium and maximum periods shall be imposed. If kidnapping for a ransom or extortion, or murder or homicide, or rape is committed as a result or on occasion thereof, the penalty of death[20] shall be imposed."

Anent the serious physical injuries inflicted on complaining witnesses Marina Benos and Alfonso Malicdan, the court a quo is correct in holding that said injuries are considered absorbed in the integrated crime of Highway Robbery with Homicide in view of the imposition of reclusion perpetua.

As regards the civil aspect of the case, we advert to the policy of the Court setting the indemnity for death of a person at P50,000.00.[21] However, We sustain the award of P60,000.00 to the heirs of Edwin Sarol as We find it reasonable under the attendant circumstances, aside from the fact that the crime committed is a heinous one,[22] and the amount adjudged is not being disputed.

With regard to the award of P20,000.00 to Marina Benos for actual damages, We find the same sustained by the evidence.

The trial court further awards to Marina Benos P20,000.00 "for her injuries" and to Alfonso Malicdan P20,000.00 "as moral damages for his injuries". While we perceive some inaccuracy in designating these additional awards, and they are not even explained in the decision appealed from, We nevertheless consider them appropriate under the circumstances as moral damages for the physical sufferings of the offended parties arising from the injuries sustained by them, conformably with Art. 2217, New Civil Code.

WHEREFORE, the judgment of the court a quo finding appellant TOM CHANAS Y PITAN guilty beyond reasonable doubt of the crime of Highway Robbery with Homicide under P.D. 532 is hereby AFFIRMED, with the modification that the award for physical injuries of P20,000.00 each for Marina Benos and Alfonso Malicdan is deemed an award for moral damages. Costs against appellant.

SO ORDERED.

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

[1] Penned by Judge Ruben C. Ayson, Regional Trial Court, Branch 6, Baguio City.

[2] Decision, p. 11; Rollo, p. 29.

[3] Tsn, January 9, 1989, pp. 13-14; tsn, January 10, 1989, pp. 27-28; tsn, January 13, 1989, p. 45.

[4] Tsn, January 9, 1989, pp. 13-14; tsn, January 10, 1989, pp. 27-28.

[5] Tsn, January 9, 1989, p. 4; tsn, January 13, 1989, p. 46.

[6] Tsn, January 9, 1989, pp. 5-8, 15-16; tsn January 13, 1989, pp. 46-48.

[7] Tsn, January 13, 1989, pp. 49-50; tsn, January 10, 1989, pp. 28-31.

[8] Tsn, July 18, 1989, pp. 2-6; tsn, September 4, 1989, pp. 2-6.

[9] Tsn, July 18, 1989, pp. 6-8.

[10] Ibid., pp. 8-11.

[11] Tsn, July 11, 1989, pp. 2-8.

[12] Tsn, January 9, 1992, pp. 6-7.

[13] Ibid., pp. 16-19.

[14] Appellee's Brief, pp. 19-20; Rollo, p. 49.

[15] People v. Bustarde, G.R. No. 79160, February 23, 1990; 182 SCRA 554.

[16] People v. Arroyo, G.R. No. 99258, September 13, 1991, 201 SCRA 616; People v. Obenque, G.R. No. 57893, January 30, 1987, 147 SCRA 488.

[17] People v. Lacao, Sr., G.R. No. 95320, September 4, 1991; 201 SCRA 317.

[18] Decision, p. 7; Rollo, p. 25.

[19] People v. Custodio, G.R. No. 96230, May 27, 1991; 197 SCRA 538.

[20] Death penalty can no longer be imposed under Sec. 19 [1], Art. III, 1987 Constitution. Accordingly, the death penalty imposed by P.D. 532 is automatically reduced to reclusion perpetua.

[21] People v. Sison, G.R. No. 86455, September 14, 1990, 189 SCRA 643, 648; People v. Lugto, G.R. No. 89214, October 18, 1990, 190 SCRA 754, 757; En Banc Resolution dated August 30, 1990.

[22] People v. Mapalao, G.R. No. 92415, May 14, 1991; 197 SCRA 79, 81.

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