

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO CARAIG Y FELIX, ACCUSED-APPELLANT.

G.R. No. 91162. October 03, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

For the killing of Armando Villena on January 19, 1981, the accused-appellant, Reynaldo Caraig y Felix was charged with the crime of murder in Criminal Case No. R-81-724 of the Regional Trial Court, Branch 39, at Manila. The information filed in said case reads as follows:

"That on or about January 19, 1981, at nighttime purposely sought to better accomplish his criminal design, in the City of Manila, Philippines, the said accused conspiring and confederating with several others whose true names, identities and present whereabouts are still unknown and helping one another, did then and there wilfully, unlawfully and feloniously, with intent to kill and with evident premeditation and treachery, attack, assault and use personal violence upon one Armando Villena y Fernando by then and there stabbing him with a deadly weapon several times, thereby inflicting upon the said Armando Villena y Fernando mortal wounds which were the direct and immediate cause of his death."

"Contrary to law." (p. 11, Rollo)

Upon being arraigned, the appellant entered a plea of not guilty to the offense charged. After trial on the merits, the trial court, on January 9, 1984, rendered its decision convicting Caraig, the dispositive portion of which reads:

"FOR ALL THE FOREGOING CONSIDERATIONS, the Court finds and declares accused REYNALDO CARAIG guilty beyond reasonable doubt of the crime charged (MURDER) without the attendance of either generic aggravating or mitigating circumstance and conformably sentences him to suffer LIFE IMPRISONMENT; to indemnify the heirs of the victim in the amount of P12,000.00; and to pay the costs.

"The period of preventive imprisonment undergone by the accused shall be deducted from his term of imprisonment in pursuance of Art. 29, of the Revised Penal Code, as amended.

"SO ORDERED." (p. 28, Rollo)

Hence, this appeal from the lower court's decision with the following assignment of errors:

"FIRST ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS PETRONILA QUINTERO, AND IN NOT FINDING HER TESTIMONY TO BE A FABRICATION IF NOT A PERVERSION ALTOGETHER.

"SECOND ASSIGNMENT OF ERROR

"THE LOWER COURT LIKEWISE ERRED AND VERY GRIEVOUSLY IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS LUCY DALAY, THE SUPPOSED EYEWITNESS TO

THE STABBING INCIDENT, AND IN NOT FINDING HER ALSO TO BE A PERVERTED WITNESS, WITH A FABRICATED STORY.

"THIRD ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN NOT FINDING THAT APPELLANT WAS NOT PROPERLY IDENTIFIED AS THE ONE WHO STABBED THE VICTIM TO DEATH.

"FOURTH ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN NOT FINDING THAT MORE THAN ONE ASSAILANT STABBED VICTIM TO DEATH.

"FIFTH ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN FINDING REVENGE AS A MOTIVE OF APPELLANT IN STABBING VICTIM TO DEATH WITH THE ATTENDANT CIRCUMSTANCE OF EVIDENT PREMEDITATION.

"SIXTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN CONVICTING APPELLANT BASED ON THE WEAKNESS OF THE DEFENSE EVIDENCE, AND NOT ON THE STRENGTH OF THE PROSECUTION'S EVIDENCE.

"SEVENTH ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE OF MURDER AND IN SENTENCING HIM TO SUFFER LIFE IMPRISONMENT AND TO INDEMNIFY THE HEIRS OF VICTIM IN THE AMOUNT OF P12,000.00 AND TO PAY THE COSTS.

"EIGHTH ASSIGNMENT OF ERROR

"THE TRIAL COURT ERRED IN NOT ACQUITTING APPELLANT OF THE OFFENSE CHARGED." (pp. 110-111, Rollo)

The antecedent facts of the case are as follows:

On January 19, 1981, at about 12:00 o'clock midnight, the deceased, Armando Villena, went to the house of Petronila Renta Quintero, located at Gerona Street, Tondo, Manila, to see his kumpadre, Fernando, son, of Petronila Quintero. Tondo was then celebrating its annual feast of Santo Niño. Petronila Quintero testified that she told the deceased that Fernando was not there as the latter already left. When the deceased was about to leave the house, a group of persons composed of Ben Ramos, Onyo Zamora, Danny and Monching, who were drinking along Gerona Street near the house, invited the deceased to drink with them. The appellant then arrived and approached the deceased while holding and concealing a knife at his back. The deceased told the appellant that he does not know of any reason why there should be a feud between them but he has heard news that the latter was planning to kill him. When Ben Ramos approached the appellant, the latter left. The deceased told Ben Ramos that he would like to talk to the appellant so he would know the reason behind the latter's actuations. After a short while, the appellant returned with some companions. Villena told the appellant that he only went there to attend the fiesta, to which statement the latter answered that he does not trust the deceased. Thereafter, the appellant and his group left. Fearing that the appellant and his friends were waiting for Villena in the alley, Petronila Quintero prevailed upon the former not to go home yet. Nevertheless, the deceased, accompanied by Ben Ramos, left and went home.

An eyewitness for the prosecution, Lucy Dalay, testified that at about 1:00 o'clock in the morning of January 19,

1981, while she was at the corner of Cabangis and Herbosa Streets on her way home in Tondo after watching a stage show, she noticed several people running and scampering within the area. Thereafter, she saw the appellant Reynaldo Caraig stabbing the deceased Villena twice with a kitchen knife while the latter was pleading for his life. Lucy Dalay also testified that she clearly saw the incident because the place was well-lighted, as there were rows of lights in the area and that she was just 2 1/2 meters away from the crime scene. She did not relate the incident to anyone except to her companion in the house. She later gave her statement to the police on January 26, 1981.

On February 16, 1981, the police authorities apprehended the accused. He was identified by Lucy Dalay as the person who stabbed Armando Villena.

The cadaver of Villena was autopsied by Dr. Luis Larrion, Chief of the Medico Legal Department of the Western Police District. His testimony on his findings was summarized by the trial court, to wit:

"x x x the cause of death of Villena was profused bleeding due to multiple stab wounds penetrating the chest and abdomen, piercing the lungs, pericardium, right heart and pulmonary artery. Apropos the examination on the body of the victim, there were visibly nine (9) stab wounds, four of which were fatal. These stab wounds could have been caused by a sharp pointed instrument and considering the variable size of the stab wounds, they could have been caused by more than one instrument. All the findings were embodied in the Post-Mortem Report x x x." (p. 25, Rollo)

Accused, Reynaldo Caraig, on the other hand, denied participation in the killing of Villena. According to him, on January 18, 1981, at about 11:00 p.m., he was about to sleep when the barangay chairman, Mr. Munsayac, arrived in his house; that they drank together up to 1:05 in the morning of January 19, 1981; that after the barangay chairman left, he went to sleep; and that there were other visitors in his house but could not recall what time they left.

Anent his first, second, third and fourth assigned errors, the accused submits that the trial court should not have relied on the testimonies of prosecution witnesses Petronila Quintero and Lucy Dalay in concluding that the accused stabbed the deceased to death, in view of the glaring contradictions and inconsistencies found in their testimonies. He claims that Petronila Quintero fabricated her story on the events prior to the actual killing, as shown by the fact that during the direct examination, she produced the kitchen knife which she allegedly saw the accused was holding at his back the first time he approached the deceased, without explaining how she came into possession thereof. He also claims that Lucy Dalay likewise concocted her story on the stabbing incident by declaring that she saw the accused stab the deceased twice with a kitchen knife, whereas the medico-legal officer who examined the cadaver of the deceased, testified that the latter sustained nine (9) stab wounds, four of them fatal and which could have been caused by more than one instrument. The appellant finally argues that the delay in reporting the crime to the police authorities by Lucy Dalay casts doubt on the veracity of her statements.

The above allegations of the appellant have no merit. Although witness Quintero produced a certain knife before the court which she alleged to be the same knife which the appellant held when he first confronted the deceased, there is no reason why appellant should harp on this matter considering that the said knife was never offered as evidence by the prosecution which could prejudice the accused and prove his criminal liability. Hence, this fact alone is not a sufficient reason for disbelieving the said witness testimony. Records show that Petronila Quintero was consistent throughout her testimony as to the verbal confrontation that transpired between the appellant and the deceased before the killing happened. Although not probative of the fact of killing itself, Quintero's testimony positively shows that the appellant was physically present within the area of the crime scene shortly before the killing incident, thus, in effect disproving appellant's alibi that he was at his house all the time in the midnight and early morning of January 19, 1981.

Lucy Dalay, the eye-witness for the prosecution, declared in a clear and straight-forward manner that she personally saw the appellant Reynaldo Caraig stab the deceased Villena twice with a kitchen knife on the early morning of January 19, 1981 after noticing several people fleeing and running from the scene of the stabbing. At that time, Dalay was merely 2 1/2 meters away and could clearly see what was happening since the streets were well-lighted with many lamps, as it was fiesta in Tondo then. Further, as found by the trial court, Dalay knew the appellant as she used to buy bangus from him at the market and likewise knew the deceased Villena because she used to weave palaspas for the latter during the Holy Week.

In positively identifying the accused as the one she saw stabbing the deceased, Lucy Dalay testified thus:

"Q.

What happened when you saw the accused Reynaldo Caraig on that time and date?

"A.

I saw that he was stabbed twice.

"Q.

Who was stabbed twice?

"A.

Armando Villena, sir, was the one stabbed.

"Q.

Who stabbed Armando Villena?

"A.

Reynaldo Caraig, sir, was the one who stabbed him.

"x x x x x x x x.

COURT:

"Q.

You said Reynaldo Caraig stabbed Armando Villena twice with what did Reynaldo Caraig stabbed Villena with (sic), with what was he stabbed?

"A.

He was stabbed with kitchen knife.

"X X X X X X X X.

"Q.

What did you notice if you noticed anything before the stabbing took place?

"A.

There were many people fleeing away from the scene where the incident took place.

"X X X X X X X X.

COURT:

"Q.

At that time when these people were fleeing from the incident where the incident took place are you LEADING the court to understand that the incident took place when you saw these people scampering from the place you saw these people scampering?

"A.

I have not seen yet the stabbing when I saw the people scampering away from the scene of the incident." (TSN, September 9, 1981).

Contrary to the submission of appellant, Dalay's testimony is neither inconsistent nor contradictory to the medical findings of the medico-legal officer who found nine stab wounds on the body of the deceased. A perusal of the records will show that Lucy Dalay did not immediately witness how the stabbing started. What she first saw was that people were running and scampering from the area where the stabbing has started to take place. It was only two minutes after that she actually saw the appellant already stabbing the deceased twice with a knife. As to how the body of the deceased incurred the other seven stab wounds, aside from the two inflicted by the appellant is not expressly elicited by the testimony of Dalay. Nevertheless, there is no doubt that the appellant inflicted at least two (2) of the nine (9) stab wounds on the deceased with a knife, four of which directly caused the death of the deceased.

The fact that the appellant was with other persons when he committed the crime can be deduced from the following testimony of Dalay and We quote:

"Q.

How many times did Reynaldo Caraig stab Armando Villena?

"A.

Twice, sir.

"Q.

On what part of the body was Armando Villena stabbed by Reynaldo Caraig if you know?

"A.

In front of the body, sir.

"Q.

When Armando Villena was being stabbed by Reynaldo Caraig what was he saying if any?

"A.

‘Tama na maawa na kayo.’” (TSN, September 9, 1981) (Italics ours).

Although Dalay did not see the companions of appellant stab the deceased, the medical report states that the nine stab wounds found on the deceased's body could have been caused by more than one instrument in view of the variable size of each of the wounds (TSN, April 21, 1982). Based on such findings is the possibility that other persons were also responsible for the death of the victim.

The probability that there may be other assailants beside the appellant who participated in the commission of the crime does not lessen or much more negate the appellant's liability for the death of Villena. If this were true, the combined efforts of the accused and his companions in inflicting mortal wounds on the deceased would result in conspiracy among them. In this case, the act of one is the act of all. The identity of the other assailants who inflicted the other wounds is immaterial in proving the appellant's criminal liability in the presence of indubitable evidence that the accused stabbed the victim which resulted in his death.

The alleged delay of Lucy Dalay in giving her statement to the public authorities should not cast doubt on her credibility as a witness. To report a crime to the police after seven days from the time the crime was committed is not sufficient to constitute delay. Moreover, We have held that failure of a witness to report at once to the police authorities the crime they had witnessed should not be taken against them. It is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case. The natural reticence of most people to get involved in a criminal case is of judicial notice (*People v. Pacabes*, No. 55417, June 24, 1985, 137 SCRA 158).

The testimonies of the prosecution witnesses taken as a whole indubitably show appellant's responsibility for the death of Villena. It is a fundamental rule in criminal cases that in the matter of credibility of witnesses, the findings of the trial court are given weight and highest degree of respect by the appellate court (*People v. Sarol*,

No. 66240, October 8, 1985, 139 SCRA 125). Moreover, the motive of the prosecution witnesses in this case to implicate the accused was not shown (*People v. Bocasos*, No. 61134, July 15, 1985, 137 SCRA 531). In the absence of evidence that the prosecution witnesses possessed ill-will against the accused, identification should be given weight since the witnesses would not falsely impute to the accused a serious criminal offense if it is not the untarnished truth (*People v. Cabanit*, G.R. Nos. 62030-31, October 4, 1985, 139 SCRA 94; *People v. Dallantes*, No. 70639, June 30, 1987, 151 SCRA 592).

The alibi of the appellant that he was at his house in Tondo all the time while the crime was being committed must fail in view of the positive testimony of the eye-witness that she saw the accused kill the deceased. Alibi is a weak defense against positive identification of the culprit, especially where it is established mainly by the accused and not corroborated by credible persons (*People v. Canturia*, No. 67598, October 11, 1985, 139 SCRA 280; *People v. Cabanit*, Nos. 62030-31, October 4, 1985, 139 SCRA 94). Where the witness saw the accused at the scene of the crime, as in this case at bar, the latter's alibi cannot prosper (*People v. Magdahong*, Nos. 83028-29, August 10, 1989, 176 SCRA 262).

Anent his fifth, sixth and seventh assignment of errors, appellant contends that the trial court erred in convicting appellant of the crime of murder. We find no reason to disturb the findings of the trial court except as to its finding that evident premeditation attended the commission of the offense. In appreciating evident premeditation as a qualifying circumstance, the court a quo found that the killing by the appellant "was spawned by the previous stabbing of the victim by the accused in 1973 and the consequent stabbing of the brother of the accused in the same year by the victim," (p. 167, Rollo) which eventually caused the accused to harbor ill feelings against the deceased especially "when the side of the accused was made to pay P3,500.00 to the victim to settle his case." (p. 167, Rollo) The fact that there had been a dispute between the accused and the deceased and that this dispute may have been the cause which led to the commission of the crime is not sufficient to prove that the accused conceived the killing prior to putting it into execution or that he had a fixed and deliberate determination to commit it (*People v. Indica*, 3 Phil. 313). Evident premeditation cannot be inferred simply from the fact that the deceased and the accused were enemies (*People v. Bordador*, 63 Phil. 365). This circumstance must be established indubitably and clearly as the criminal act itself. Hence, in order that this circumstance will qualify the offense to murder, it is necessary to prove a) the time when the offender determined to commit the crime; b) an act manifestly indicating that the culprit has clung to his determination; and c) a sufficient lapse of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act (*People v. Obenque*, No. 57893, January 30, 1987, 147 SCRA 488; *People v. Manalo*, No. 55177, February 27, 1987, 148 SCRA 98). Where there is no direct evidence of the planning and preparation to kill or of when the plan to kill was conceived, evident premeditation cannot be considered (*People v. Mabansag*, Nos. 60039-40, March 20, 1985, 135 SCRA 475; *People v. Samson*, G.R. No. 55520, August 25, 1989, 176 SCRA 710). In the case at bar, no evidence was presented by the prosecution to prove the time when the appellant had determined to kill the deceased.

Lacking such proof, the conviction of the appellant for murder cannot be sustained. The offense committed by him is homicide punishable by RECLUSION TEMPORAL under Article 249 of the Revised Penal Code. There being no aggravating or mitigating circumstances that attended the commission of the said offense, the proper penalty to be imposed on the appellant should be an indeterminate one ranging from EIGHT (8) YEARS and ONE (1) DAY of PRISION MAYOR, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of RECLUSION TEMPORAL, as maximum.

The indemnity in the amount of P12,000.00 ordered by the trial court to be paid by the appellant to the heirs of the deceased Armando Villena is increased to P50,000.00 (*People v. Sison*, G.R. 86455, September 14, 1990, 189

SCRA 700).

ACCORDINGLY, the judgment appealed from is MODIFIED and the appellant is sentenced to suffer an indeterminate penalty ranging from EIGHT (8) YEARS and ONE (1) DAY of PRISION MAYOR, as minimum, to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of RECLUSION TEMPORAL as maximum, and to indemnify the heirs of the deceased in the amount of P50,000.00 and to pay the costs.

SO ORDERED.

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

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