

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN BELIBET, MANNY BANOY AND RONNIE ROSERO, ACCUSED-APPELLANTS.

G.R. No. 91260. July 25, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellants, having been convicted of murder by Branch 47 of the Regional Trial Court of Masbate for the killing of one Gracito Hatulan, have come to us on appeal, seeking a second chance to prove their professed innocence which they claim should have been declared by the court a quo.

In contra, the trial court in its decision dated September 14, 1989 held that the guilt of said appellants was duly established by the prosecution with the requisite quantum of evidence showing that they committed the felony "employing superior strength qualified by treachery in the process, which aggravating circumstance is not offset by any mitigating circumstance." Consequently, it rendered judgment sentencing each of the appellants "to the extreme penalty of reclusion perpetua; to indemnify the heirs of Gracito Hatulan in the sum of P30,000.00 without subsidiary imprisonment in case of insolvency; to suffer the accessory penalties provided for by law; and to proportionately pay the costs." Appellants were credited with four-fifths (4/5) of the period of their preventive imprisonment.[1]

The transcript of the stenographic notes taken at the trial of this case and the findings of the court below sustain the following summary submitted by the People of the factual antecedents of this case:

"Manny Banoy, Ronnie Rosero, Edwin Belibet, Erusto Cos, and Gracito Hatulan were among those who attended a dance at Sitio Nipa, Barangay Bolo, Municipality of Masbate, on June 3, 1987. As the dance progressed, Gracito Hatulan confronted Manny Banoy about the former's pair of pants which he lost claiming that it was stolen by the latter. Manny Banoy got mad at Gracito Hatulan stating that he had nothing to do with it. Later, on the dance floor, Erusto Cos heard Edwin Belibet, Manny Banoy and Ronnie Rosero, hatch a plan to kill Gracito Hatulan (pp. 3-5, tsn, May 24, 1988).

"At about 2:00 o'clock in the morning of June 4, 1987, Erusto Cos, Edwin Belibet, Manny Banoy, and Ronnie Rosero left the dancing hall and passing through the seashore, they saw Gracito Hatulan sleeping in a banca. Erusto Cos tried to waken him but was prevented from doing so by his companions. Thereafter, Edwin Belibet stabbed Gracito Hatulan with a 'machete', hitting him in his left upper nipple. Gracito made a stir but Ronnie Rosero took his turn in stabbing Gracito Hatulan in the breast with the same weapon while Manny Banoy held Gracito's hands. Erusto Cos pleaded to his companions not to harm Gracito Hatulan but his plea fell on deaf ears. Engulfed by fear, he ran away (pp. 5-7, tsn, *ibid*). Thereafter, on that same morning of June 4, 1987, Erusto Cos informed the mother of Gracito Hatulan about the death of her son (p. 8, tsn, *ibid*)."

"The postmortem report (Exh. 'A') of Dr. Emilio C. Quemi shows that the victim sustained (1) stab wound, measuring about an inch, located at the left aspect of the middle of the sternum, and (2) stab wound, measuring about 3/4 inch located at the right aspect of the middle third of the sternum (pp. 36-42, tsn, Dec. 7, 1988)."[2]

On August 11, 1987, an information charging appellants with the crime of murder was filed alleging that on June 4, 1987, at Sitio Nipa, Barangay Bolo, Masbate, Masbate, "the said accused confederating together, and helping one another with intent to kill, evident premeditation, treachery and superiority of strength, did then and there willfully, unlawfully and feloniously attack, assault and stab with knife "Matchete" (sic) one Gracito Hatulan while the latter was sleeping, hitting him on the chest, thereby inflicting wounds which directly caused his instantaneous death." [3]

At the arraignment, appellants entered a plea of not guilty [4] and after trial on the merits, the appealed decision was rendered by the lower court.

Not satisfied therewith, appellants filed their present petition for review on certiorari faulting the court a quo as having allegedly committed grave errors of law (1) in relying on the testimony of prosecution star witness Erusto Cos which, aside from being insufficient to convict appellants was indubitably fabricated; (2) in convicting appellants by capitalizing on the infirmity of the evidence of the defense rather than on the strength of the evidence for the prosecution; and (3) in convicting appellants despite failure of the prosecution to establish their complicity, much less their guilt, by proof beyond reasonable doubt. [5]

The resolution of the foregoing assignment of errors palpably hinges on the sufficiency of evidence presented by the prosecution to establish appellants' guilt beyond reasonable doubt.

On the issue of whether or not the degree of proof required in criminal cases has been met, the credibility of witnesses who appeared in court becomes a foremost matter. It is doctrinally entrenched that on the question of credibility, this Court will not disturb the findings of the trial judge unless he has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. [6] The reason is the opportunity available to the trial court - but not to the appellate court - to observe the witnesses on the stand and to assess their credibility not only by the nature of their testimony but also by their demeanor under questioning. [7]

Expectedly, appellants vigorously assail the credibility of prosecution eyewitness Erusto Cos. They contend that the testimony of said witness should not be accepted in all respects since it appears to be caught in a snare of inconsistencies, and that the same does not jibe with the declaration of the victim's mother. They point out that when Cos allegedly overheard appellants hatching a plot to kill Hatulan, he neither tried to curb such murderous plan nor premonished the victim. We have taken due note of appellants' assertions but we are constrained to reject the same.

It is of common knowledge that the complexity and intensity of interrogation and the atmosphere of the courtroom during the trial will naturally affect the capability and deportment of a layman in answering questions. This is especially true of Cos who reached only the third grade in school and had the inexperience of a simple 18-year old farmer. However, despite his lack of education and social exposure, he remained unflinching in his testimony that appellants were the ones who killed Hatulan. His testimony on how the wounds of the victim were inflicted are confirmed by the location thereof as reflected in the autopsy report and the expert testimony thereon. [8]

Moreover, the Court has time and again held that inconsistencies and contradictions referring to minor details do not destroy the credibility of the witness. [9] The most candid witness oftentimes makes mistakes but such honest lapses do not necessarily impair his intrinsic credibility. [10] Minor inconsistencies do not affect the veracity and testimony on material points. [11] Rather than affect the credibility of the witness, they are badges of their truthfulness and candor. [12]

Appellants would capitalize on the fact that Cos allegedly made an admission in open court that he was testifying

out of sheer fear of being implicated in the crime. Yet, as easily gleaned from the transcripts, the defense made it a point to confuse the witness on this score by a line of questioning with repeated resort to leading questions. A leading question is one which suggests to the witness the answer desired.[13] Thus, it is correct to say that a leading question propounded to a witness may by reacting to an inference in his mind, cause him to testify in accordance with the suggestion conveyed by the question and that his answer may be merely an echo of the question.

The evidence on record shows that Cos and appellants were together in the dance and on their way back home thereafter. While they were walking along the seashore, they saw Hatulan sleeping on a boat. It was then that appellants executed their plan and attacked the helpless victim in the presence of Cos who tried to stop them.

Undoubtedly, when Cos positively and categorically identified appellants as the killers of Hatulan, he could not possibly be mistaken as to their identities for he had personally known them since childhood. Neither is there any showing that he had any motive to testify falsely against appellants with whom he was apparently on good terms.

With respect to appellants, it has long been established that motive becomes essential only when there is doubt as to the identity of the assailants. It becomes immaterial when the accused have been positively identified.[14] With regard to Cos, there is nothing in the records which would show a motive or reason on his part to falsely implicate appellants, hence his identification should be given full credence. When there is no evidence indicating that the principal witness for the prosecution was moved by improper motive, the presumption is that he was not so moved, and his testimony is entitled to full faith and credit.[15]

Appellants vehemently denied the commission of the crime imputed to them. On cross-examination, Rosero averred that although he knows Belibet whom he saw at the dance, they did not talk with each other at that time.[16] On the other hand, Banoy denied the testimony of Cos that while the dance was in progress, he had an altercation with the victim whose identity was supposedly not even known to him. He further alleged that he did not have a chance to converse with Belibet.[17] Belibet, on his part, testified that he did not know the victim personally, but he said that the victim was "staring bad" at him, which fact prompted him to go home early.[18]

The positive identification of appellants by the prosecution witness should prevail over the former's denials of the commission of the crime for which they are charged, since greater weight is generally accorded to the positive testimony of the prosecution witness than the accused's denial.[19] Denial, like alibi, is inherently a weak defense and cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.[20]

Furthermore, the defense of alibi was properly rejected by the court a quo. Appellants claim that Banoy and Rosero had gone together to and arrived at the dancing hall in the evening of June 3, 1987. Belibet also supposedly arrived at about the same hour but, when he discovered that he was being stared at by Hatulan, he went home alone at about 11:00 o'clock that evening, passing through a trail from the dancing hall. Banoy and Rosero allegedly also went home much later passing through a trail leading to Barangay Bolo.[21]

Assuming arguendo the veracity of their foregoing avowals, still for alibi to prosper it must be established by clear and convincing evidence that the accused were at some other place and for such a period of time as to negate their presence at the time when and the place where the crime was committed.[22] It was not denied that the seashore, the situs of the crime, is only fifty (50) meters away from the dancing hall and even from the residences of appellants, the farthest being that of Belibet which is four (4) kilometers away. The aforesaid distances could not comply with the requirement of "physical impossibility on their part to have access to the situs of the crime," thus obviating any favorable consideration of their defense.[23]

WHEREFORE, the judgment of the court a quo is AFFIRMED, with the modification that the indemnity to the heirs of the victim is increased to P50,000.00,[24] for which appellants shall be solidarily liable.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Original Record, 138; Judge Sinforoso S. Nano, presiding.

[2] Brief for the Plaintiff-Appellee, 2-4; Rollo, 45.

[3] Original Record, 1.

[4] Ibid., 20.

[5] Appellant's Brief, 1; Rollo, 30.

[6] People vs. Javier, 183 SCRA 702 (1990).

[7] People vs. Francisco, et al., 182 SCRA 305 (1990).

[8] Exh. A; TSN, Dec. 7, 1988, 37-39.

[9] People vs. Pacnis, 165 SCRA 609 (1988).

[10] People vs. Pasco, et al., 181 SCRA 233 (1990).

[11] People vs. Capinpin, Jr., et al., 166 SCRA 233 (1988).

[12] People vs. Bolima, et al., G.R. No. 96549, Mar. 22, 1991.

[13] Sec. 10, Rule 132, Rules of Court.

[14] People vs. Gadiano, G.R. No. 92509, Mar. 13, 1991.

[15] People vs. Doctolero, et al., G.R. No. L-34386, Feb. 7, 1991.

[16] TSN, July 10, 1989, 75.

[17] Ibid., id., 91-92.

[18] Ibid., Aug. 14, 1989, 104.

[19] People vs. Marcos, 185 SCRA 154 (1990).

[20] People vs. Payumo, 187 SCRA 64 (1990).

[21] Original Record, 135.

[22] People vs. Bicog, et al., 187 SCRA 556 (1990).

[23] People vs. Acosta, 187 SCRA 39 (1990).

[24] People vs. Sison, G.R. No. 86455, Sept. 14, 1990.

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