

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO DE JESUS Y LIAMSY, CARLOS TUPAZ Y PAMINTUAN, ACCUSED-APPELLANTS.

G.R. No. 91535. September 02, 1992

Ponente: NOCON, J.

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NOCON, J.:

The main issue raised in this appeal is whether admissions obtained during custodial interrogations without the benefit of Miranda warnings and in the absence of counsel are admissible in evidence when the same are later reduced into writing and signed in the presence of counsel.

Accused Carlos Tupaz filed this appeal from the decision of the Regional Trial Court of Pasig, Metro Manila in Criminal Case No. 70857, finding him and his co-accused, Eduardo de Jesus guilty beyond reasonable doubt of the crime of Robbery with Homicide. The dispositive portion of the decision reads:

"ACCORDINGLY, the Court finds the accused Ruel Capistrano NOT GUILTY of the offense herein charged for insufficiency of evidence so that said charge should be and is hereby DISMISSED as against him; and that the accused Carlos Tupaz and Eduardo de Jesus are GUILTY beyond reasonable doubt of the crime of Robbery with Homicide as charged and therefore hereby sentences each of them to suffer the penalty of reclusion perpetua; and in solidum, to indemnify the heirs of the deceased Leonardo Garcia the sum P30,000.00 and to restitute to Nelson Garcia, the brother of the victim, the amount of P7,000.00 which he spent for the wake and funeral of his deceased brother." [1]

The accused were charged in an Amended Information which reads:

"That on or about the 8th day of September, 1987, in the Municipality of Pasig, Metro Manila, Philippines, within the jurisdiction of this Honorable Court, the above named accused, conspiring and confederating together and all of them mutually helping and aiding one another, armed with a dagger, a stainless knife and an icepick, with intent to gain, without the knowledge and against the will of the owner thereof and by means of force and intimidation, did then and there willfully, unlawfully and feloniously take, rob and divert from one Leonardo Garcia y Carian a tricycle driver, cash money amounting to P40.00; that on the occasion of the said robbery and for the purpose of insuring success in their criminal acts, the said accused with intent to kill, conspiring and confederating together and mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously attack, assault and stab said Leonardo Garcia y Carian, thereby causing the latter to sustain fatal stab wounds which directly caused his death." [2]

The facts as found from the records reveal that on September 8, 1987, at about 8:30 p.m., three unidentified men flagged down the tricycle of Leonardo Garcia. After a few minutes' ride, Leonardo was stabbed 17 times on the neck, trunk and on the extremities, causing his death. [3] His meager earning that day of P40.00 was taken from him.

The case of Leonardo was referred to Pat. Rogelio Lorbes for investigation after a certain Violeta de Vera

reported to the Pasig Police Station at around 11:00 p.m. on September 8, 1987 that a victim of robbery hold-up was brought to Rizal Medical Center. Pat. Lorbes, together with a Pat. Meoleta, went to the said hospital and was informed that the victim's identity was Leonardo Garcia. After gathering more information from the victim's sister, Pat. Lorbes went immediately to the scene of the crime specifically at San Agustin Street at the back of the Public Market, Pasig, Metro Manila. However, he failed to gather any information on the commission of the crime or identities of the assailants, since no one among those he interviewed witnessed the incident.[4]

On September 9, 1987, Cpl. Arnaldo Limpoco and Pfc. Reynaldo Zapata were dispatched to a particular stall along San Agustin St., Public Market, Pasig to look for a certain "Eddie" and another surnamed Tupaz in connection with the death of Leonardo. Upon finding the two, the police officers asked them whether they had knowledge of the stabbing incident, to which they allegedly answered in the affirmative. "Eddie," accused Edgardo de Jesus, then surrendered to the officers two bladed weapons: one ten-inch dagger and one eleven-inch stainless knife.[5] "Eddie" and Tupaz, herein appellant Carlos Tupaz, were brought by the officers to police headquarters, where they were turned over to Pat. Lorbes. The two were then interrogated by Pat. Lorbes[6] without the assistance of counsel.[7] On September 10, 1987, Pat. Lorbes fetched a lawyer from CLAO, Atty. Oscar Saldivar, and in the latter's presence, reduced the statements of the two accused to writing. Both accused signed their respective statements.[8]

On the other hand, appellant Carlos Tupaz had a different version of his arrest. He testified that he was a market vendor and owns a stall at the Pasig Public Market selling pineapples, cabbages, stringbeans, bananas and other fruits and vegetables.[9] He has been in this trade for four years and practically live, eat and sleep in said stall.

He claimed that in the morning of September 9, 1987, while he was tending his stall at the Public Market in Pasig, three men in civilian clothes entered his stall, poked a gun at him and begun searching the place. After which, he was mauled and was forced to board a jeep. While inside the jeep, he continued receiving blows until they reached the Police Headquarters of Pasig.[10]

At the police headquarters, appellant was placed in one of the detention cells. Around midnight, he was taken out of his cell by Cpl. Limpoco and brought to a room where he was handcuffed and blindfolded by Cpl. Limpoco. Cpl. Limpoco then began mauling him, all the while forcing him to admit killing somebody at the market. After three hours, appellant was returned to his cell. The following day, September 10, 1987, appellant asked to see a doctor, but was refused by the jail guard.

At 3:00 o'clock in the afternoon of that same day Pat. Lorbes took him to the CLAO office to sign some documents (Exhibit "K"), with a warning and threat not to say anything about the incident which transpired the night before.[11] Appellant Tupaz denied knowing Eduardo de Jesus, or "Boy Negro" until he met them in jail. He also denied furnishing the answers in his alleged statement,[12] although he admitted that it was his signature which appeared thereon. In fact, he never gave a statement to the police that he was a truck helper, because he is not, as he is a vegetable and fruit vendor.

As observed by the trial court:

"After a thorough assessment of the evidence submitted in this case, the Court is given the impression that the prosecution mainly relied on the sworn statements in the nature of confessions given by both the accused Carlos Tupaz and Eduardo de Jesus before the police investigator, Pfc. Rogelio Lorbes, sometime in the morning of September 10, 1987; and their supplementary sworn statements which may also be construed as confessions given before the same investigator sometime on October 26, 1987, both of which identified the other accused Ruel Capistrano upon the latter's arrest, as their companion when they robbed and killed the victim Leonardo Garcia that night of September 8, 1987 somewhere at San Agustin Street, Volante, New Public Market, Pasig, Metro Manila." [13]

There being no other witness to the crime, the court itself relied heavily on the sworn statements of the accused declaring that their “interlocking confessions which were corroborated in some aspects by some other evidence” leaves “very little doubt”[14] (underscoring ours) that they were responsible for the crime.

The trial court further said:

“The Court viewed with jaundiced eyes the protestations of Tupaz and de Jesus when they testified that they did not know the contents of the documents presented to them and were forcibly made to sign each one of them because of physical maltreatment that they suffered in the hands of police officers.

x x x

“They could have blurted out to the fiscal that these statements were extracted from them by force and intimidation and the fiscal could easily order their detention elsewhere such as the provincial jail so that they maybe beyond the clutches of their captors. But they did not. This is one significant factor determinative of the falseness of their claim that they were not aware of the contents of the documents executed by them and that their signatures or thumbmarks were affixed thereon through force and threats.”

While there is some merit in the above pronouncement of the trial judge, but has the prosecution established the burden of evidence of proof beyond reasonable doubt? Is the alleged extra-judicial confession admissible in evidence? If so, is it sufficient to convict?

In the case of *Morales v. Ponce Enrile*[15] this Court laid down the correct procedure for peace officers to follow when making an arrest and in conducting a custodial investigation:

“At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means – by telephone if possible – or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory in whole or in part, shall be inadmissible in evidence.”

In this instant case, the investigating officer Pfc. Rogelio Lorbes admitted that the two accused, Tupaz and de Jesus were turned over to him for investigation on September 9, 1987 by the CID, interviewed them and solicited from them facts and information surrounding the robbery hold-up with homicide without the assistance of a lawyer. The facts and information were later reduced to writing on September 10, 1987 in the presence of a CLAO lawyer, a certain Atty. Saldivar.[16] Considering such circumstances, there was an apparent violation of the accused right to counsel. The right to counsel attaches upon the start of an investigation, i.e., when the investigating officer starts to ask questions to elicit information or confession or admission from the accused.[17]

Appellant in this case was already arrested as one of the principal suspects in the killing of Garcia when he was turned over to Pfc. Lorbes for investigation. According to the testimony of Cpl. Limpoco, he, together with his team, was ordered to make a follow-up investigation of a stabbing incident that happened at the New Pasig Public Market on or about September 8, 1987; and that their target persons were one Eddie and another Tupaz.[18] Consequently, the “interview” conducted by Pfc. Lorbes cannot be considered merely as a general inquiry but rather a custodial investigation. Custodial investigation is the stage where the police investigation is no longer a

general inquiry into an unsolved crime but has began to focus on a particular suspect who had been taken into custody by the police who carry out a process of interrogation that lends itself to elicit incriminating statements. It is when questions are initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.[19]

As to the other constitutional pre-condition, particularly that of the Miranda warning, the trial court was convinced that this was met in as much as the sworn statements[20] show that this was complied with. We disagree. In the case of *People v. Jara*,[21] this Court through Justice Gutierrez, said:

“[The] stereotyped ‘advice’ appearing in practically all extrajudicial confessions which are later repudiated has assumed the nature of ‘legal form’ or model. Police investigators either automatically type it together with the curt ‘Opo’ as the answer or ask the accused to sign it or even copy it in their handwriting. Its tired, punctilious, fixed and artificially stately style does not create an impression of voluntariness or even understanding on the part of the accused. The showing of a spontaneous, free and unconstrained giving up of a right is missing.”

It is possible that the accused-appellant really took part in the robbery hold-up, but the Court is not persuaded to the point of moral certainty, which is the high standard of proof required for conviction. If We disregard the extrajudicial confession, We find that the prosecution has no other evidence to sustain a finding of guilt beyond reasonable doubt.

So often has it been said that it is better for one hundred criminals to go free than for one innocent man to be convicted. That is the reason why We require the constitutional presumption of innocence to be offset only by most persuasive of proofs that will establish the guilt of the accused beyond the whisper of doubt.[22]

WHEREFORE, finding that the guilt of the accused-appellant Carlos Tupaz has not been proved beyond reasonable doubt, the decision of the lower court is hereby REVERSED and the accused-appellant is ACQUITTED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Rollo, p. 44.

[2] Original Records, p. 14.

[3] Rollo, p. 21.

[4] TSN, May 27, 1988, pp. 3-4.

[5] TSN, March 14, 1988, pp. 2-7.

[6] TSN, id., p. 5.

[7] TSN, August 30, 1988, p. 6.

[8] TSN, May 27, 1988, p. 5; August 30, 1988, p. 6.

[9] TSN, March 7, 1989, pp. 5-6.

[10] TSN, March 7, 1989, pp. 6-8.

[11] TSN, id., pp. 11-13.

[12] Exhibit "K".

[13] Decision, p. 16.

[14] Decision, p. 23.

[15] G.R. No. 61016 & 61107, 121 SCRA 538 (1983).

[16] TSN, August 30, 1988, p. 6.

[17] Arroyo v. Court of Appeals, G.R. No. 96602, 20 February 1991, Minute Resolution.

[18] TSN, March 14, 1988, pp. 2-3.

[19] Miranda v. Arizona, 384 U.S. 436, 444.

[20] Exhibit "K".

[21] G.R. No. L-61356-57, 144 SCRA 516 (1986).

[22] People v. Capilitan, G.R. No. 73382, 182 SCRA 313 (1990).

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