

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON SAMPAGA, ACCUSED-APPELLANT.

G.R. No. 91539. September 30, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

In an Information[1] dated July 15, 1988, the accused-appellant, Ramon Sampaga, was charged with the crime of MURDER alleged to have been committed as follows:

That on or about March 9, 1988, in the evening thereof, at Barangay Asid, Municipality of Masbate, Province of Masbate, Philippines, within the jurisdiction of this court, the above-named accused, with intent to kill, evident premeditation, treachery and taking advantage of nighttime, did then and there willfully, unlawfully and feloniously attack, assault and shot with a gun one Antolino Alba, hitting him on the head, thereby inflicting wound, which caused his instantaneous death.

CONTRARY TO LAW.

The records show that Antolino Alba, the deceased, was the Chief Barangay Tanod of Asid, Masbate. On the night of the incident, he and two of his co-Tanods, namely, Felix Malunes and Elizer Himpaya, were instructed by his father, Asid Barangay Captain Generoso Alba, to go to the dance party being held near the residence of one Aristoteles Pacheco, to inquire if a dance permit was obtained for the same. Incidentally, another benefit dance headed by Generoso Alba himself was being held that same evening in the plaza of Barangay Asid, as part of the celebration of the forthcoming barangay fiesta.

Shortly after Antolino and his two companions arrived at the dance party near Pacheco's house, gunshots were suddenly heard, and the people in the party scampered to the safety of their homes. Only Antolino never returned home that night. His lifeless body was retrieved the following morning near the plaza where the dance party was held the night before.

On arraignment, accused-appellant Ramon Sampaga, pleaded "not guilty" to the crime charged and a trial ensued.

The prosecution presented as its eyewitness Felix Malunes, one of the deceased Antolino's companions on that night of the incident. He testified in this wise:

x x x [t]hat in the evening of March 9, 1988, at the barangay plaza of Asid, Masbate, Masbate together with a barangay tanod Elizer Himpaya, he was instructed by their barangay captain Generoso Alba, to accompany his son, Antolino Alba a Chief Tanod, to check the permit of a dancing session going on at the house of Aristoteles Pacheco. On reaching the place which is 800 meters away from the barangay plaza of Asid, Antolino approached and talked with Aristoteles while they (himself and Elizer) were at a distance of six (6) feet from them but could hardly hear them because of the loud music being played. The two, however, were not able to finish their conversation because Ramon Sampaga emerged from the left side of Antolino at a distance of six (6) feet, shot the latter with a short gun which he does not know what kind of gun. After the shooting, Antolino fell to the ground and he and Elizer went back to the barangay plaza of Asid and reported that Antolino Alba

was shot to death by Ramon Sampaga. They did not immediately retrieve Antolino's body per instruction of the father because it was already dark and they were afraid. However, they went the following morning to the scene of the crime. But they did not bring the body until it was investigated by the police authorities. It was only after the investigation that they brought Antolino's body to their house and thereafter examined by a doctor.[2]

Malunes' testimony was corroborated on vital and material points by Generoso Alba, the father of the deceased and barangay captain of Asid, who testified as follows:

x x x [t]hat in the evening of March 9, 1988, he instructed Barangay Tanod Elizer Himpaya and Felix Malunes to accompany his son Antolino, the Chief Tanod, to go to the house of Aristoteles Pacheco, likewise a Barangay Tanod, to check the permit of the on going dance at his place. After several minutes Malunes and Himpaya returned without Antolino because according to the two, he (Antolino) was shot dead by Ramon Sampaga. He did not immediately retrieve his son's body until the following morning when he, together with Malunes, Himpaya and some other folks went to the crime scene where he saw his dead son. He did not touch first the body until it was investigated by the police authorities from the capital town. It was only after the investigation that he ordered his men to bring his son's corpse to their house.[3]

The medico-legal officer who examined Antolino's cadaver which was already in rigor mortis because eighteen hours had already elapsed since he died, stated that the cause of death was the gunshot wound on the head of the victim just above the left ear wherein brain substance was damaged; that the assailant was of the same level as the victim when shot because of the straight trajectory of the bullet, and that the gunman was within one meter away from the victim.

The last prosecution witness was the police investigator, Virgilio Cabujat. He testified that on March 10, 1988 he went to Barangay Asid to investigate the shooting that happened the night before. He was informed that accused-appellant shot the victim but when he went to the latter's house, he was not there and was nowhere to be found. He then instructed the witnesses to appear at the police station for the formal investigation in connection with the death of Antolino Alba.[4]

The accused-appellant interposed the defenses of denial and alibi.

The accused-appellant who claims to be himself the Barangay Captain of Asid, was the first to take the witness stand. He testified that in the evening of March 9, 1988, they held a benefit dance near the house of Kabataang Barangay Chairman Aristoteles Pacheco. He denied seeing Antolino Alba and Felix Malunes in that dance. He said that the dance abruptly ended when someone was shot dead. He, however, denied killing Antolino because he did not have a gun and Antolino was a relative, being his wife's uncle. He explained his absence after the incident as due to his work in the town of Masbate with one Bicoy Ferrer. He likewise said that he learned about the incident and his being a suspect therein only seven days later when he read about it in the local tabloid "Panahon." [5]

The two other defense witnesses testified on the accused-appellant's character as a peaceful and exemplary member of the community, having served as a barangay councilman and later as a barangay captain. In addition, Aristoteles Pacheco, the third witness, admitted that there was dancing near his house on the night of the incident. But he denied first hand knowledge of the killing as he came to know about it only the following morning.

On December 16, 1989, the trial court rendered its decision convicting the accused-appellant, the decretal portion of which reads as follows:

WHEREFORE, the Court finds the accused, Ramon Sampaga, guilty of the crime of murder established by proof beyond reasonable doubt and hereby sentences said accused to suffer the penalty of life imprisonment or

reclusion perpetua, to pay the heirs of the deceased, Antolino Alba, the amount of P30,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

SO ORDERED.[6]

Accused-appellant appealed the decision, assigning the following as the errors committed by the trial court:

I.

THE LOWER COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF WITNESS FELIX MALUNES AND IN DISREGARDING THE TESTIMONIES OF THE DEFENSE WITNESSES.

II

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT FOR THE CRIME OF MURDER CONSIDERING THE FACT THAT THE KILLING WAS NOT ATTENDED BY TREACHERY, EVIDENT PREMEDITATION AND TAKING ADVANTAGE OF NIGHTTIME.

III

THE LOWER COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF MURDER DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[7]

We examined and reviewed carefully the records of the case, including the transcripts of the stenographic notes.

We found no cogent reason for disturbing the decision of the trial court convicting the accused of the crime charged. We are convinced that the accused-appellant is guilty beyond reasonable doubt of murder as found by the trial court.

The accused-appellant's defense of alibi is unavailing in the face of the eyewitness Felix Malunes' positive identification of the former as the triggerman who killed Antolino Alba. True, the third companion of the victim, Elizer Himpaya, was never called to the witness stand to testify on matters regarding the killing itself. But well-settled is the rule that the testimony of a single witness, even if uncorroborated, is sufficient for conviction provided it is clear and convincing.[8] The testimony of only one witness, if credible and positive, and if it satisfies the court beyond reasonable doubt, is sufficient to convict.[9] Felix Malunes could not have been mistaken about the accused-appellant's identity as he was only six feet away from Antolino Alba, who in turn, was only within one meter away from the gunman. Add to this the fact that the dancing place was brightly illuminated by a "petromax" (a Kerosene lamp). And being barriomates, Malunes is familiar with the assailant, a well-known resident of the barrio who claims to be himself the barangay captain. No motive had been shown that the eyewitness, Felix Malunes, may have been impelled to lie at the stand.

With regard to the alleged delay in reporting the crime to the police authorities, we have ruled on several occasions that "[the] delay of several months in reporting the incident to the police does not affect [the witness'] credibility, the reluctance of witnesses to volunteer information in a criminal case being of common knowledge, besides the fact that [the witness] was in fear of [her] life." [10] Here, only three days had elapsed before Felix Malunes' statement identifying the accused-appellant as the culprit was officially taken by the police. Said delay of three days, if at all it was a delay, does not in any way detract from the veracity of Malunes' testimony because even on the eve of the incident, he already identified Ramon Sampaga as the assailant, when he reported to the victim's father that his son was shot by the accused and died as a result thereof.[11]

We agree with the Solicitor General that the crime was attended by treachery. The facts reveal that the deceased had just started talking with Aristoteles Pacheco, owner of the dancing place, when Ramon Sampaga, who was

about six feet away to the left of Antolino, suddenly shot the latter. The attack was so sudden and unexpected to the point of incapacitating the victim to repel or escape from it. The offender adopted a method which tended directly and especially to insure the accomplishment of his purpose without risk to himself arising from any defense which the offended party might make. This is treachery.[12]

WHEREFORE, the challenged decision of the trial court is hereby **AFFIRMED**, with the modifications that the indemnity for the death of the victim is increased to P50,000.00 in line with the latest jurisprudence on this matter and that the penalty should only be reclusion perpetua. The penalty of "life imprisonment" is hereby **DELETED**.

SO ORDERED.

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

[1] Rollo, 9-10.

[2] Rollo, 10-11.

[3] Id., 11-12.

[4] TSN, May 4, 1989, 6 and 7.

[5] Rollo, 13-14.

[6] "People v. Sampaga," Regional Trial Court, Fifth Judicial Region, Branch XLVIII, Masbate, Masbate, Hon. Ricardo B. Butalid, Presiding Judge, rollo, 19-20.

[7] Rollo, 37.

[8] People v. Martinez, G.R. No. L-33907, January 31, 1984, 127 SCRA 260.

[9] People v. Salondro, G.R. No. 59438, February 28, 1989, 170 SCRA 763.

[10] People v. Martinez, *supra*, note 8, 6.

[11] TSN, March 20, 1989, 15.

[12] Paragraph 16, Article 14, Revised Penal Code of the Philippines; People v. Noble, 77 Phil. 93; People v. Rendora, 106 Phil. 1162 (G.R. No. L-14356, September 30, 1959).

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