

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEJANDRO MOTAR, SALVADOR MAGPILI, ROMULO DEL MUNDO
AND RICARDO GOLEZ, ACCUSED. ALEJANDRO MOTAR AND
SALVADOR MAGPILI, ACCUSED-...**

G.R. No. 92505. April 30, 1991

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Charged with and convicted of Murder and sentenced to reclusion perpetua by the Regional Trial Court, Branch 39, Calapan, Oriental Mindoro,[*] accused-appellants Alejandro MOTAR and Salvador MAGPILI interpose this appeal.

Actually, two other accused, namely, Romulo del Mundo and Ricardo Golez, were charged with the same crime in the Amended Information, but because they were still at large, trial proceeded only against accused-appellants.

The prosecution witnesses narrated their version of the circumstances surrounding the commission of the crime substantially as follows: On 13 December 1987, at about 6:00 P.M., the victim PEDRO Artificio told his common-law wife, MERLITA Pradejas, that he was going to collect a loan from Romulo del Mundo, who then resided in the house of Salvador MAGPILI.

At about 8:30 that same evening, MERLITA decided to follow PEDRO. She passed by the house of NORBERTO Mores and asked him to accompany her. Together, they proceeded to MAGPILI's house. As they were approaching the place, they met PEDRO, who was running. PEDRO told them to take cover as he was being pursued by four (4) armed men.

Heeding the warning, MERLITA and NORBERTO immediately sought cover in a grassy area. From their hiding place, they saw MOTAR hack the victim with a bolo and hit him on the left side of the neck. The latter fell to the ground. Romulo del Mundo then stabbed him, while Ricardo Golez and MAGPILI took turns in hacking him with their bolos. At that point in time, the victim was lying on the ground with his face downward.

After having witnessed the criminal assault, MERLITA proceeded homeward. On the way, she met one Samuel Marquez, a member of the Sangguniang Bayan, and reported the incident. Upon arrival at her house, she locked herself in lest her husband's assailants follow her. At about 12:00 midnight, Samuel Marquez and some companions brought the body of her husband home. And at about 1:00 P.M. the following day, a physician conducted an autopsy of the cadaver.

The necropsy findings revealed two hack wounds on the neck, three incised wounds below the back of the neck, and three stab wounds on different parts of the victim's back. Those injuries affected vital organs and produced profuse hemorrhage, causing the victim's death.

Pfc. Virgilio Romero, a member of the Victoria Police Force, and to whom the killing incident was reported,

testified that upon arrival at MAGPILI's house, they saw in front thereof the cadaver of the victim, which had sustained several wounds. Noticing traces of blood spots, they followed the same until they reached a place where there was a lot of blood about 150 meters away from MAGPILI's house. They likewise found two (2) bolos covered with grass at the bank of the NIA dike, about fifteen (15) meters away from the area where they saw blood.

For their part, accused-appellants assail their identification by eyewitnesses MERLITA and NORBERTO, and rely on their alibi that on the date of the incident in question, they were threshing palay in a ricefield at San Narciso, Victoria, Oriental Mindoro, where they stayed up to 9:00 P.M. They categorically denied having had anything to do with the victim's death and pointed, instead, to Romulo del Mundo and Ricardo Golez as the perpetrators of the crime.

MOTAR testified that at about 7:00 A.M. of 13 December 1987, he, his mother and half-brother, MAGPILI, went to the ricefield to thresh palay. The ricefield is about one-and-a-half kilometers from their house. They ate their lunch there and stayed until 9:00 P.M., when they went home. Thereat, they learned from MAGPILI's wife that PEDRO had been killed by Romulo del Mundo and Ricardo Golez. The witness saw PEDRO lying on his back, with a "balisong" in his right hand. Thereupon, he and his mother went to the Barangay Captain of San Narciso to report but because the latter was not around, they proceeded to the house of Sgt. Dagang, a retired military officer, and informed him of the matter. Sgt. Dagang then left for the police station while MOTAR and his mother were left behind.

Sgt. Antonio Dagang confirmed that MOTAR and his mother had reported their finding of a dead person in front of MAGPILI's house. Sgt. Dagang testified that when he proceeded to that place in the company of policemen, he saw at a distance of about two (2) meters away from MAGPILI's house a dead body. When they questioned MAGPILI and his wife, they replied that the body had been taken there by Ricardo Golez and Romulo del Mundo.

Accused-appellant, MAGPILI, substantially corroborated MOTAR's testimony about their having been in the ricefield the whole day of 13 December 1987. He further declared that he told the police that Romulo del Mundo and Ricardo Golez were the victim's killers but that despite said revelation, he and his half-brother, MOTAR, were incarcerated.

Another defense witness, Romeo Trinidad, testified that at about 6:30 P.M. of 13 December 1987, he had gone to MOTAR's house to borrow a lamp but found nobody there. On his way home, he met MOTAR's mother who informed him that MOTAR was in the ricefield. He proceeded on his way and happened to pass by the place where the victim, PEDRO, Romulo del Mundo and Ricardo Golez, were having an altercation. He did not mind them. After negotiating a distance of about sixty (60) meters, he heard a commotion and noticed that PEDRO was being chased by Romulo and Ricardo. That was already around 7:30 P.M. Having overtaken PEDRO, they hacked him and the victim fell to the ground. Stricken with fear, he hurried home.

After trial and an assessment of the varying testimonies, the Trial Court rendered judgment finding MOTAR and MAGPILI guilty beyond reasonable doubt of the crime of Murder with the qualifying circumstance of abuse of superior strength, and sentenced them to suffer reclusion perpetua, together with the accessory penalties provided by law, and to indemnify the legal heirs of the victim jointly and severally in the amount of P30,000.00.

Accused-appellants assail the verdict of guilt against them in that:

"I. The Trial Court gravely erred in giving weight and credence to the theory of the prosecution and in disregarding that of the defense.

"II. The Trial Court gravely erred in convicting accused-appellants of the crime charged despite the absence of evidence clearly and positively identifying them as the malefactors.

"III. The Trial Court gravely erred in disregarding accused-appellants' defense of alibi and in not acquitting them on ground of reasonable doubt."

Upon the evidence, we cannot see our way clear to upholding accused-appellants' submissions. We find an evident attempt on the part of defense witnesses to "pass the buck" so to speak, to the accused who have been at large, namely, Romulo del Mundo and Ricardo Golez.

However, the testimonies of eyewitnesses, MERLITA and NORBERTO, are clear and leave no doubt. A distance of about ten (10) arms-lengths from their hiding place to the scene of the hacking and stabbing is not too far away as to hamper their vision, as the defense would like to make it appear. Although the night was dark, MERLITA explained that MOTAR was equipped with a flashlight, which enhanced visibility somewhat. Besides, MERLITA and NORBERTO were well acquainted with all four (4) accused, which factor adds to the credibility of their identification of accused-appellants. Besides, they were able to report the respective participation of all four accused to the police immediately after the occurrence so that despite the latter's denials and attempt to conveniently pass the blame only to the two of them who were at large, the police investigated and incarcerated MOTAR and MAGPILI just the same and subsequently charged them in Court.

Evidence, therefore, is not wanting, as alleged, linking accused-appellants to the crime. Aside from testimonial proof, the medical findings of "hack wounds" and "incised wounds" on the neck confirm MERLITA's testimony that one of the four accused, MOTAR specifically, had stabbed the victim on his neck. So also do the stab wounds "at the lateral aspect of the sternum at the level of the third rib," "at the back medial to the right scapular bone," and "at the back medial to the left scapular bone at the level of the right thoracic bone," provide the physical evidence that the other three accused, after the hacking by MOTAR, took turns in stabbing the victim already prostrate on the ground. The fact that bolos were the instruments of aggression, as testified to by the two eyewitnesses, MERLITA and NORBERTO, is confirmed by the discovery of two (2) bolos covered with grass at the bank of a dike approximately fifteen (15) meters away from the area where the police investigators saw a lot of blood.

The fact of pursuit of the victim prior to the stabbing, is confirmed no less by a defense witness, Romeo Trinidad, who narrated that he "heard a commotion and noticed that Pedro Artificio was being chased," except that, like other defense witnesses, tried to pinpoint culpability on Romulo del Mundo and Ricardo Golez alone in a concerted attempt to exculpate MOTAR and MAGPILI.

The defense of alibi preferred by accused-appellants fails to persuade considering the unlikelihood that threshing of rice would have taken place until 9:00 o'clock in the evening on what has been established to have been a moonless night. Besides, since the ricefield was only about a kilometer-and-a half from the site of the incident, it would have been an easy matter for accused-appellants to have negotiated the distance back and forth.

It is true that MOTAR and his mother had reported the discovery of the dead body at around 9:00 P.M. of 13 December 1987 to Sgt. Dagang, which was confirmed not only by the latter but also by Pfc. Romero, a prosecution witness. That does not necessarily establish, however, that MOTAR could not have been one of the assailants. He and MAGPILI, who testified that his wife had told him upon his reaching home that the dead person was killed by Del Mundo and Golez, could have easily detached themselves from the latter two, whom they knew had already fled soon after the incident and whom they could very conveniently lay the blame on. Besides, as to the issue of credibility, it has been long settled that the findings thereon of the Trial Court, which is in a better position to determine the same owing to its ability to observe the demeanor and behavior of witnesses

on the stand, are entitled to great respect from reviewing Courts.

Authorship of the crime can, thus, be unwaveringly traced to accused-appellants and the two other accused still at large. True, MOTAR and MAGPILI made no attempt to flee. But that was because they thought that with Romulo del Mundo and Ricardo Golez having flown the coop, they were armed with a built-in defense, besides the fact that they were immediately taken into custody on the strength of the testimony of two eyewitnesses, whose presence in the vicinity of the crime they were completely unaware of.

WHEREFORE, we affirm the judgment under review, except for the increase of the indemnity to P50,000.00 in line with latest jurisprudence on the matter, which shall be borne by accused-appellants jointly and severally. Alejandro Motor and Salvador Magpili shall each bear one-half of the costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Judge Marciano T. Virola, presiding.

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