

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTOR BELLO, WILLIAM LARA Y MONTILLA ALIAS INSO, ABDUL SALIGAN Y HAIDER ALIAS BOY MUSLIM, AND RUDY LARA Y MONTILLA, ACCUSED, ...

G.R. No. 92597. October 04, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 47, Masbate, in Criminal Case No. 4782, finding appellant guilty of the crime of murder.

We affirm the decision of the trial court.

I

The information filed in Criminal Case No. 4782, charged William Lara y Montilla alias "Inso," Abdul Saligan y Haiden alias "Boy Muslim," Rudy Lara y Montilla (at large) and herein appellant of the crime of murder and alleged:

"That on or about June 19, 1985, in the evening thereof, at Barangay Pangle, Municipality of Aroroy, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused confederating together, helping one another with intent to kill, evident premeditation, treachery, superiority of strength and taking advantage of nighttime, did then and there willfully, unlawfully and feloniously attack, assault and shoot with a gun one Benjamin Lachica, hitting the latter on the different parts of the body thereby inflicting wounds which caused his death several minutes thereafter" (Rollo, p. 3).

Appellant, assisted by his counsel, pleaded not guilty to the charge. Accused William Lara and Abdul Saligan, who also entered a plea of not guilty, died during the pendency of the trial; hence, the case against them was dismissed.

On February 9, 1990, the trial court rendered its decision, the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING, the guilt of accused Victor Bello y Ocampo for the offense charge of murder qualified by treachery, was established beyond reasonable doubt, and he is hereby sentenced to suffer the penalty of reclusion perpetua; to indemnify the heirs of the victim 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 pay the costs. Accused Victor Bello y Ocampo is credited four-fifth (4/5) of the period of his preventive suspension.

As prayed for by Public Prosecutor Alberto Alforte, the case of accused William Lara y Montilla alias Inso, who died on April 5, 1986, was ordered dismissed on June 26, 1986. As the guilt of the other accused was not established beyond reasonable doubt, they are hereby acquitted of the offense charged, and their bondsmen are released on their obligations appertaining thereto" (Rollo, p. 17).

II

On June 19, 1985, at around 8:00 P.M., Wilfredo Espaldon went to the house of Benjamin Lachica in Barangay Pangle, Aroroy, Masbate to visit his sick brother, Walter. Walter was the son-in-law of Benjamin. At around 9:00 P.M., somebody called for Benjamin three times. Benjamin asked Wilfredo to open the door. There were two lighted kerosene lamps in the room and Wilfredo took one of them before opening the door. When Wilfredo opened the door, he recognized appellant as the one who called for Benjamin. Appellant, who had three companions with him, introduced himself as a constabulary soldier. He then fired a warning shot which hit Benjamin on the back. Benjamin was about one meter from appellant. After Benjamin fell on the floor, three more shots were fired at him. Appellant and his companions then left, going towards Barangay Mabari-an.

Wilfredo and Walter reported the incident to the Barangay Captain of Pangle, who rushed to the crime scene. The Barangay Captain and Wilfredo tried to bring Benjamin to a hospital but he died on the way. His body was thereafter brought to the house of Salvador Espaldon.

Wilfredo knew appellant because they used to be neighbors in Barangay Pangle, Aroroy, Masbate.

Josefa Lachica, Benjamin's wife, corroborated Wilfredo's testimony that appellant was the one who shot her husband. She also testified that prior to the incident, Benjamin and appellant had quarreled regarding the latter's failure to make the plow ordered by the former.

Appellant interposed the twin defense of denial and alibi. He claimed that on June 19, 1985, at around 6:00 P.M., he, together with his wife and children, was in their house at Barangay Madangcalan, Baleno, Masbate. He was making a scabbard for his bolo, when Ignacio, his brother, arrived bringing with him a gallon of tuba. They drank the tuba until 11:00 P.M. He, then, slept until 5:00 A.M.

The other defense witness, Luis Manlapaz, the Barangay Captain of Madangcalan, vouchsafed the good moral character of appellant.

III

In his appeal, appellant claims that the trial court erred in giving credence to the inconsistent testimonies of the prosecution witnesses. He contends that the contradictions in the testimonies of Wilfredo Espaldon and Josefa Lachica, are so irreconcilable that serious doubt is engendered as to the veracity thereof. He claims that while Wilfredo testified that the family of the victim were eating their supper when the shooting occurred, Josefa testified that she was already lying down ready to go to sleep.

Testimonial discrepancies on minor details tend to strengthen rather than weaken credibility as they erase any suspicion of any rehearsal before the witnesses testified in court. It would perhaps have been more suspicious if the prosecution witnesses had been able to describe with precision the exact sequence of events (*People v. Pasco*, 181 SCRA 233 [1990]). Furthermore, total recall or perfect symmetry in the testimony of witnesses is not required. As long as the witnesses concur on material points, slight differences in their recollection of the details do not reflect on the essential veracity of their testimonies (*People v. Avila*, 192 SCRA 242 [1990]). In the case at bench, both prosecution witnesses are one in saying that four shots were fired by appellant and that all shots hit the victim.

Appellant further contends that since the house of the victim is elevated two feet above the ground, then the flooring of the house in relation to the assailant would be more or less at the assailant's waist. He claims that at that position, the assailant could not have aimed directly at the victim because his line of sight would have been distracted by the light of the lamp which was held by Espaldon when he opened the door.

It is difficult to follow the line of reasoning of appellant. The situation described by him does not establish that the assailant's vision would be affected by the light from the lamp.

Another inconsistency pointed out by appellant was that it was unlikely for him to have shot the victim four times, without also hitting the other members of the family, who were then taking their supper.

The victim was only one meter away from appellant when the latter fired his gun. All the shots fired hit their mark. This explains why no stray bullets hit any of the members of the family. Besides, there was no evidence presented to show the relative positions of the other members of the family when the shooting occurred to warrant the possibility of hitting anyone of them.

Appellant asserts that since Wilfredo claimed that he witnessed the shooting at close range, he should have known the kind of gun used in committing the crime. What Wilfredo testified was that appellant used a gun about ten inches in length.

We do not expect a mere farmer of a remote barrio to be an expert at firearms identification so as to be able to describe in detail the kind of gun used. What is essential is that he saw a gun which was fired by appellant. The caliber, make or the kind of gun is not an element of the crime of murder. A person not dealing in firearms and ammunition is not expected to know the specific description of a weapon.

Lastly, appellant asserts that the prosecution failed to prove his guilt beyond reasonable doubt because it failed to present both the medical certificate or autopsy report to show that indeed the victim's death was caused by bullet wounds, as well as the gun used by appellant.

While the testimony of a medico-legal expert is preferred as to the injuries suffered by the victim in a case of murder or homicide, it is not the only competent evidence to prove the injuries and the fact of death. The testimony of a lay person is equally admissible regarding the fact of the victim's demise and the surrounding circumstances thereof (*People v. Baybayon*, 184 SCRA 13 [1990]).

For purposes of conviction, it is enough that the prosecution establishes by proof beyond reasonable doubt that a crime was committed and the accused is the author thereof. The production of the weapon used in the commission of the crime is not a condition sine qua non for the discharge of such burden, for the same may not have been recovered at all from the assailant (*People v. Florida*, 214 SCRA 227 [1992]).

Anent the defense of denial, as between a categorical testimony which has a ring of truth on one hand and a bare denial on the other, the former is generally held to prevail (*People v. Biago*, 182 SCRA 411 [1990]; *People v. Abonada*, 169 SCRA 530 [1989]).

We agree with the trial court that the presence of treachery qualified the crime to murder. In the instant case, the victim was sitting with his back towards the door when he was shot by appellant. It has been held that there is treachery when the victim was shot from behind without risk to his assailants (*People v. Villalobos*, 209 SCRA 304 [1992]; *People v. Melgar*, 157 SCRA 718 [1988]).

WHEREFORE, the decision appealed from is AFFIRMED, with the modification that the indemnity for the death of the victim be increased to P50,000.00.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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