

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLITO BALTAZAR CABRERA, FLORO ANGUTAN CABUG AND JESUS AGUILAR, ACCUSED-APPELLANTS.

G.R. No. 93898. September 11, 1995

Ponente: PADILLA, J.

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PADILLA, J.:

Appealing from the decision[1] of the Regional Trial Court of Valenzuela, Branch 171, Metro Manila, in Criminal Case No. 9049-V-88, appellants contend that the trial court erred in finding them guilty beyond reasonable doubt of the crime of robbery with homicide, as there was allegedly uncertainty in the evidence of the prosecution as to the identities of the perpetrators of the crime.

Appellants were charged in an Information, dated 23 October 1988, which reads as follows:

"That on or about the 18th day of October, 1988, in the municipality of Valenzuela, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rolito Baltazar Cabrera and Floro Angutan Cabug, together with one Jessie Martinez Aguilar, who is still at large and against whom the preliminary investigation has not yet been completed by the Office of the Provincial Fiscal of Bulacan, armed with kitchen knife, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation, take, rob and carry away with them cash amounting to P500.00, belonging to Ramon V. Bartolo, to the damage and prejudice of the latter in the said amount of P500.00; and that simultaneous or during the commission of the robbery, the said accused conspiring and confederating together, with intent to kill said Ramon V. Bartolo, did then and there wilfully, unlawfully and feloniously attack, assault and stab the said Ramon V. Bartolo with the said kitchen knife, hitting the latter on his body, thereby inflicting stab wounds which directly caused his death.

"Contrary to law."[2]

Appellants, assisted by counsel de officio, pleaded not guilty to the charge.

The prosecution presented three (3) witnesses, to wit: Eugenia Bartolo, widow of the victim Ramon V. Bartolo, Danilo Ragasa who heard the accused talking about their commission of the crime, and Dr. Alberto Bondoc, the municipal health officer who conducted an autopsy of the victim's cadaver.

The facts, as summarized by the office of the Solicitor General, are as follows:

"On October 18, 1988, spouses Ramon and Eugenia Bartolo were in their respective rooms in their house at Bignay, Valenzuela, Metro Manila. At or about 8:00 p.m. of the same date, while Eugenia was praying, she left the door of her room slightly ajar by 2 inches (p. 8, TSN, Feb. 22, 1989). Jesus Aguilar suddenly entered the room of Eugenia and poked a bladed instrument at her neck, demanding: "Ang pera; ang pera, ilabas mo!" (The money, the money, take it out!). She was told by Aguilar to stand still by the door while she pointed where the money was. Aguilar took the money (P500.00) from the top of the dresser and returned to her, poking again the knife at her neck (pp. 4-7, TSN, Jan. 25, 1989).

"Simultaneously, Eugenia heard a commotion coming from Ramon's room. Thereafter, she saw Floro Cabug embracing her husband from behind leading towards the stairs. She then saw Cabug stab Ramon three (3) times. (pp. 7-8, TSN, Jan. 25, 1989; pp. 7 & 11, TSN, Feb. 3, 1989; p. 6, TSN, April 12, 1989).

"Meantime, Aguilar, still poking the knife at her neck, threatened Eugenia: "Huwag kang mag--iingay at papatayin din kita." Cabug likewise warned her, "Pag pinatunayan mo na sinaksak ko ang asawa mo, papatayin kita" (p. 9, TSN, Jan. 25, 1989).

"Then, Aguilar joined Cabug to leave their (sic) house. Both fled using the back door near the kitchen. Eugenia crawled near the "sibi" of their house. There, she peeped and saw Aguilar and Cabug together with Rolito Cabrera leaving the house (pp. 4-5, TSN, Feb. 3, 1989; p. 10, TSN, Feb. 22, 1989).

"Eugenia approached the bloodied Ramon who then was lying on the floor. She embraced and pressed her face on the face of her husband. She noticed that he was no longer breathing. She shouted for help and their neighbors arrived. (pp. 9-10, TSN, Jan. 25, 1989)."[3]

Appellants interposed the defense of alibi and denial.

Floro Cabug claimed that he was at the parking space at the Meycauayan Interchange where he worked as a jeepney barker from 5:00 p.m. up to 10:00 p.m. in the evening of 18 October 1988 and that after he left the place at 10:00 p.m. he went to watch a game in a billiard hall. He denied knowing both of his co-accused nor having seen them on the day of the incident.

Jesus Aguilar testified that at 8:00 p.m. on 18 October 1988, he was at home with his sick child and that at about 12:00 midnight, he brought the child to the Nazareno's Hospital near the Meycauayan municipal building and stayed at the hospital with his wife until 5:00 or 6:00 a.m. the following day. He likewise denied knowing his two (2) co-accused Floro Cabug and Rolito Cabrera, stating that he came to know them only when he was detained in the municipal jail.

Rolito Cabrera also denied any participation in the commission of the crime. He testified that at about 7:00 o'clock on the night of 18 October 1988, as he was having supper at Maricel's store, he was approached by Aguilar and Cabug who prevailed upon him to take some appetizers somewhere. They proceeded to Bignay in a tricycle driven by Jesus Aguilar who, upon reaching a certain place, alighted followed by Floro Cabug. He (Rolito) stayed behind in the tricycle and waited for the two; that after a while Aguilar and Cabug came running back to the tricycle and he noticed that Cabug had bloodstains on the front part of his T-shirt and in his right hand while Aguilar had no shirt on. When he asked them what happened, they told him they had stabbed an old man and warned him not to report the incident to anyone.

The trial court found the defense of alibi to be unworthy of belief. It found that the places mentioned by accused Aguilar and Cabug were within riding distance from the scene of the crime so that they could travel with ease and facility to and from the place of the commission of the offense, considering its accessibility to transportation, and that the impossibility for the accused to be at the scene of the crime on the date and time in question was not clearly and convincingly established by the defense.

On the other hand, the trial court found the testimony of the lone eye-witness, Eugenia Bartolo to be credible and without bias. According to the court a quo, Eugenia Bartolo, the victim's wife, had a good look at the accused, and her unflinching recognition of the three (3) men who perpetrated the offense was clear and definite. It was not shown that she unjustly and malevolently involved the accused in the crime.

The thrust of this appeal is against the credibility of the lone eye-witness, Eugenia Bartolo, widow of the deceased victim.

Appellants aver that the identification made by Eugenia Bartolo of the accused as the authors of the crime is of dubious reliability. They argue that Eugenia stated during the police investigation that she could not identify the three (3) men who perpetrated the crime. They likewise unduly stress the minor inconsistency in the testimony of Eugenia that her husband was stabbed three (3) times which is contradicted by the physical evidence reflected in the autopsy report (Exhibit "G") showing that her husband sustained four (4) stab wounds.

The appeal is devoid of merit.

It is well-settled that the testimony of a single witness, if found convincing and trustworthy by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt. (People vs. Ranola, 212 SCRA 106)

As explained by the Solicitor General, and we quote with approval:

"The lone eyewitness to the crime was the 65-year old wife of the victim, Eugenia Bartolo. She admitted that she did not know who the perpetrators were but that she would recognize them when she sees them again. Thus, when asked who killed her husband, she replied that she did not know. She testified in court that she had not known or seen the appellants before they assaulted her husband on that fateful night of October 18, 1988. Thus:

'CROSS-EXAMINATION OF EUGENIA BARTOLO

Q:

When you called for succor, how many arrived?

A:

I was not able to count and I was not in a position to count but many arrived. They were many.

xxx xxx xxx

Q:

Please tell us what did you tell them?

A:

They asked me if I recognized those persons who entered and went up our house or if I have seen those persons before.

Q:

And what was your answer?

A:

That I have not seen those people before but if I see them again, I would be able to recognized (sic) them.' (pp. 13-15, TSN, April 12, 1989)

"Undoubtedly, because the house was well lighted at the time the crime was committed (pp. 13-14), TSN, Feb. 3, 1989), the eyewitness was able to see very clearly what happened. The incident left a very vivid picture in her mind so that she could still narrate in detail how the crime was perpetrated. Not even the scar of Aguilar which she mistook for a birthmark escaped from her memory.

'CROSS-EXAMINATION OF EUGENIA BARTOLO:

Q:

When you were investigated by the police on October 18, 1988, you were made to describe the 3 accused who allegedly entered your house, is that correct?

A:

I cannot recall if I was asked to describe them.

Q:

Tell us, Mrs. Witness, if you were asked of the following questions, 'Ano-ano (sic) ang mga itsura ng mga tao na papaalis? S - Iyong pong pang apat (sic) ay may balat sa likod.' Whom did you refer to when you gave this description?

A:

What I said was 'may balat sa baraso' and I refer to Jesus Aguilar who entered my room.

xxx xxx xxx

FISCAL VICENTE:

May I request the accused to show both his arms to find out if there really is a birth mark?

ATTY. NATIVIDAD:

The statement given in Valenzuela is a birth mark. What appears is a scar appearing on the forearm, right forearm. (pp. 7-8, TSN, May 8, 1989)."

In fine, when Eugenia said she did not know the perpetrators of the crime, she obviously meant that she had not known or seen them before they assaulted her husband. She, however, positively identified them later when she pointed to them during the police line-up of six (6) men in handcuffs who were shown to her.

Neither do we find any material discrepancy between the testimony of the lone eye-witness that she saw her husband stabbed three (3) times and the autopsy report which states that the victim bore four (4) stab wounds. The discrepancy does not detract from the essential veracity of Eugenia's testimony that she saw Cabug stab her husband, which directly and immediately caused his death. Thus, appellants' denial cannot prevail over the positive assertions of the lone eye-witness to the crime in question.

It is settled that when the issue of credibility is raised, the appellate court will generally not disturb the findings of the trial court, the latter having been in a better position to decide the question, as it heard the witnesses and observed their deportment and manner of testifying during the trial. (People vs. Gornes, G.R. No. 104869, 23 Feb. 1994, 230 SCRA 270)

Appellant Rolito Cabrera further argues that assuming that he was present when the crime was being committed, he should be acquitted since mere companionship does not establish conspiracy (People vs. Taaca, 178 SCRA 56); neither is mere knowledge, acquiescence to or approval of the act, without cooperation or agreement to cooperate, enough to constitute one as a party to a conspiracy absent the intentional participation in the transaction, with a view to the furtherance of the common design and purpose (People vs. Bragaes, et al., 203 SCRA 555), and that conspiracy should not be appreciated "when the facts can be consistent with the non-participation of the accused in the fancied cabal" (People vs. Furuganan, 193 SCRA 471).

Cabrera's reliance on the above cited cases does not help his cause. In all three (3) cases, there was no clear and adequate proof that the alleged co-conspirator therein directly participated in the commission of the crimes

charged. In the case at bench, Cabrera was positively identified as one of the three (3) men who was seen by the victim's wife leaving the house after they had robbed the spouses and stabbed the husband.

WHEREFORE, the judgment of the lower court is hereby AFFIRMED with the modification that appellants shall, jointly and severally, indemnify the heirs of Ramon Bartolo in the amount of P50,000.00 in addition to the sum of P500.00, the amount of cash taken by appellants from Eugenia Bartolo. Costs against the appellants.

SO ORDERED.

Davide, Jr., Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Penned by Judge Adriano R. Osorio.

[2] Rollo, p. 11.

[3] Rollo, pp. 142-144.

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