

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE CADAG Y CABOTAJE ALIAS “SIMEN”, ACCUSED-APPELLANT.

G.R. No. 93899. May 08, 1992

Ponente: PARAS, J.

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PARAS, J.:

Accused-appellant Eddie Cadag alias “Simen” was convicted by the Regional Trial Court of Rosales, Pangasinan, Branch 53 of the crime of Murder and sentenced to suffer the penalty of reclusion perpetua. He now seeks a reversal of the said judgment.

The facts, as gathered from the evidence on record, are as follows:

Early in the morning of March 14, 1989, the cadaver of Arnel Claridad was discovered in the Far East High School compound, at Poblacion East, Sta. Maria, Pangasinan. Patrolman Conrado Balmores conducted an investigation at the crime scene, where he saw a trek of blood from the schoolgate to the place where the body of Arnel was found. Upon inquiry, he learned that the victim was last seen the night before with one Lorna Taguiped, the appellant's common-law wife. Thus, he invited Lorna for interrogation but the appellant prevented her from going to the police station. (pp. 110-117, TSN, March 15, 1990)

On March 30, 1989, Lorna Taguiped executed a sworn statement before the NBI, declaring that she and the appellant had no knowledge about the incident because they were at home the whole evening of March 13, 1989. On July 10, 1989, however, after Lorna had broken her relationship with the appellant, she executed another sworn statement before the police pinpointing to the appellant as the assailant of Arnel.

According to eyewitness Lorna Taguiped, at about 7:00 o'clock in the evening of March 13, 1989, the appellant, who was jealous of her former boyfriend Boyet Claridad, brought her to the poblacion of Sta. Maria, Pangasinan to fetch Boyet so they could talk to him. Upon arriving at the house of Boyet, the latter's brother, Arnel, informed her that Boyet was not around. Thinking she had no companion, Arnel followed Lorna on her way back. When they reached the front of the Far East High School, the appellant appeared from the darkness. Arnel greeted the appellant by saying: “So, you are here. Why are you here, Simen?” The appellant, without warning, stabbed Arnel on the left waist, on the right face, and then on the right waist, below the breast. Arnel managed to run a few meters away inside the school compound, where he leaned under a banana tree. The appellant pursued him. Catching up with him under the banana tree, the appellant stabbed Arnel repeatedly until he died. Thereafter, the appellant together with Lorna, left Arnel, but they went back momentarily with the appellant again stabbing Arnel at the neck and breast. (pp. 16-20, TSN, March 5, 1990)

Dr. Susan Casaclang, the Municipal Health Officer, examined the cadaver of Arnel and she issued a medical certificate with the following findings:

External findings:

Head/Face:

- Abrasion - cm (R) fronto-temporal area
- Abrasion - 4 cm (R) lateral aspect of the orbit
- Lacerated wound, superficial, about 2 cm (L) cheek, zygomatic area
- Lacerated wound, about 3 cm upper 3rd (L) neck
- Lacerated wound, about 1.5 cm middle 3rd (L) neck

Chest/Lungs:

- 1) punctured wound about 11 cm in depth, about 1.5 cm in diameter, sternal area, level bet. 2nd and 3rd ICS, traversing the 2nd rib (L)
 - 2) Punctured wound, about 15 cm in depth, about 3.5 cm. in diameter, (L) subcostal area traversing the 8th rib (L)
- Lacerated wound, superficial about 1.5 cm just below wound No. 2.
 - Punctured wound about 2 cm in diameter, about 11 cm in depth, (L) lower subcostal area traversing the 9th rib (L)
 - Superficial lacerated wound about 1 cm, lateral aspect of the abdomen, along the (L) axillary line
 - Punctured wound about 2 cm diameter, about 11 cm in depth (R) subcostal area traversing the (R) lobe of the liver and the 8th & 9th ribs (R)
 - Abrasion about 6.5 cm. supraumbilical area
 - Abrasion about 4.5 cm. in length, (L) shoulder
 - Lacerated wound, superficial about .5 cm (L) forearm
 - Lacerated wound, superficial about 1 cm (L) wrist
 - Lacerated wound, superficial about 1 cm (L) thumb.

Internal findings:

- Fracture of the 8th & 9th ribs (R)
- Fracture of the 8th & 9th ribs (L)
- Lung, (L) upper lobe was lacerated
- Liver (R) lobe was lacerated.

(pp. 21- 22, Rollo)

Charged with murder, the appellant put up alibi as his defense, claiming that he was at home in San Mariano, Sta. Maria, Pangasinan, a few meters away from the poblacion the entire evening of March 13, 1989 with his common-law wife Lorna Taguiped and his mother, Teresita Cadag; that he never sent Lorna to the house of Boyet as he does not know Boyet nor Arnel Claridad personally; that it was their neighbor, Marcelo Pacion, with whom he was jealous of as the latter visited Lorna whenever he was away; that he never met Arnel on that fateful night; and that it was Lorna who had a motive to kill Arnel for the victim's brother, Boyet, by whom she got pregnant in 1987, refused to marry her. (pp. 191-202, TSN, March 22, 1990)

Corroborating the appellant's alibi, his mother, Teresita confirmed that her son was at home the whole evening of

March 13, 1989. (pp. 168-169, TSN, March 21, 1990)

Likewise, Emilia Agbunag, a neighbor, declared that between 8:00 o'clock and 9:00 o'clock in the evening of March 13, 1989, she saw the appellant at his home sitting at the sala with Lorna and Teresita. (pp. 141-144, TSN, March 19, 1990)

After trial, the trial court convicted the appellant as charged. The dispositive portion of the decision reads thus -

“WHEREFORE, the Court hereby finds Eddie Cadag, alias Simen, guilty beyond reasonable doubt of the crime of murder qualified by treachery, without any mitigating or aggravating circumstances, and sentences him to suffer the penalty of reclusion perpetua; to indemnify the legal heirs of Arnel Claridad in the amount of Thirty Thousand Pesos (P30,000.00) plus P16,590.00 as actual damages; and to pay the costs.

“SO ORDERED.” (pp. 51-52, Rollo)

In this appeal, the appellant assails the credibility of Lorna, who executed two glaringly contradictory sworn statements, and who had a motive to kill Arnel.

The appeal is meritless.

The fact that Lorna executed two wayward sworn statements does not denigrate upon her credibility. At the trial, she unabashedly admitted that the statements she made before the NBI were untrue because the appellant threatened to kill her if she stated what actually happened. Sometime in July, 1989, however, after she had separated from the appellant, she voluntarily executed another sworn statement before the police and narrated how Arnel was killed. (pp. 37-38, March 5, 1990)

Proof of motive is not indispensable to conviction. Motive is important only when the identity of the culprit is in doubt. (People vs. Perante, Jr., 143 SCRA 60) In the instant case, Lorna definitely pinpointed to the appellant as the killer of Arnel, and her testimony, corroborated by the physical evidence found by the police at the crime scene, has not been satisfactorily refuted.

We find it hard to believe that it was Lorna who committed the killing. Based on the autopsy report, the victim Arnel sustained multiple stab wounds and lacerations, not to mention broken ribs. No proof was presented to show that Lorna possesses extraordinary strength as would enable her to overpower Arnel and render him in such a helpless state.

The trial court correctly rejected the appellant's alibi, which in his case has become more dubious because it was sought to be established by the appellant himself, his mother and his neighbor, and not by uninterested, unbiased persons, who would, in the natural order of things, be best situated to support the tendered alibi. It has been repeatedly observed that alibi is a defense easily fabricated especially among parents, children and relatives, or even among those not so related, so that great caution must be exercised in accepting it. Well entrenched is the rule that for alibi to prosper, it is not enough to prove that the appellant was somewhere else when the crime was committed but it must likewise be demonstrated that he was so far away that he could not have been physically present at the place of the crime or its immediate vicinity at the time of its commission. Sta. Maria is only a few kilometers from the poblacion where the crime was committed. Such distance does not preclude the possibility that the appellant could have committed the felony. (People vs. Gapasin, 145 SCRA 191)

The trial court found that the crime committed was murder, qualified by treachery. We agree.

Evidence showed that the appellant, armed with a knife and under cover of darkness, suddenly and unexpectedly attacked in rapid succession Arnel, who was unarmed. Nocturnity, being inherent in treachery, cannot be considered separately. (People vs. Pacada, Jr., 142 SCRA 427)

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** in toto. In view, however, of the pronouncement in *People vs. Sison* (G.R. No. 86455 promulgated September 14, 1990), the indemnity to be paid should be increased to P50,000.00.

SO ORDERED.

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

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