

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN E. ILAOA AND ROGELIO E. ILAOA, ACCUSED-APPELLANTS.*G.R. No. 94308. June 16, 1994*

Ponente: BELLOSILLO, J.

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Pfc. Reynaldo P. Angeles was dispatched in the early morning of 5 November 1987 to Tinio St., Sta. Maria Phase I, Balibago, Angeles City, where the decapitated body of a man, later identified through his voter's identification card as Nestor de Loyola, was found in a grassy portion thereof. Apart from the decapitation, the deceased bore forty-three (43) stab wounds in the chest as well as slight burns all over the body. The head was found some two (2) feet away from the corpse.

Five persons, Ruben E. Ilaoa, Rogelio E. Ilaoa, Rodel E. Ilaoa, Julius Eliginio and Edwin Tapang, were charged for the gruesome murder of Nestor de Loyola. However, only the brothers Ruben and Rogelio stood trial since the other accused escaped and were never apprehended.

On 15 June 1990, the Regional Trial Court of Angeles City found Ruben and Rogelio guilty of murder with the attendant circumstances of evident premeditation, abuse of superior strength and cruelty, and imposed upon them the penalty of "life imprisonment." [1] The conviction was based on the following circumstantial evidence:

One. The deceased Nestor de Loyola was seen at about eleven o'clock in the evening of 4 November 1987, in a drinking session with his compadre Ruben Ilaoa together with Julius Eliginio, Edwin Tapang and a certain "Nang Kwang" outside Ruben's apartment. [2]

Two. The drunken voices of Ruben and Nestor engaged in an apparent argument were later on heard. [3] Nestor was then seen being kicked and mauled by Ruben and his brother Rodel, Julius Eliginio and Edwin Tapang. [4] Nestor was crying all the while, "Pare, aray, aray!" Afterwards, Nestor, who appeared drunk, was seen being "dragged" [5] into Ruben Ilaoa's apartment. Nestor was heard saying, "Pare, bakit ninyo ako ginaganito, hirap na hirap na ako!" [6]

Three. Ruben Ilaoa and Julius Eliginio borrowed Alex Villamil's tricycle at about two o'clock the following morning allegedly for the purpose of bringing to the hospital a neighbor who was about to give birth. Ruben was seen driving the tricycle alone, with a sack which looked as though it contained a human body, placed in the sidecar. The tricycle was returned an hour later to Alex who noticed bloodstains on the floor. The latter thought that they were those of the pregnant woman.

Four. Blood was found on Ruben's shirt when he was asked to lift it during the investigation by the police. [7] Moreover, Ruben's hair near his right forehead was found partly burned and his shoes were splattered with blood. [8] Susan Ocampo, Ruben's live-in partner, was likewise seen in the early morning of 5 November 1987 sweeping what appeared to be blood at the entrance of their apartment. [9]

In this appeal, brothers Ruben and Rogelio Ilaoa argue for their acquittal. They contend that the circumstantial

evidence relied upon by the trial court for their conviction failed to establish their guilt beyond reasonable doubt. Specifically, they assail the finding of evident premeditation, abuse of superior strength and cruelty as totally unwarranted.

We affirm Ruben Ilaoa's guilt having been satisfactorily established by the evidence on hand, albeit circumstantial. However, we reverse the conviction of Rogelio as we find it patently baseless.

In finding Rogelio guilty of murder, the court a quo relied solely on the testimony that he helped his brother Ruben drag Nestor de Loyola inside Ruben's apartment where the deceased was last seen alive. Apart from such testimony, however, there is nothing else to link Rogelio to the killing.

To warrant a conviction on the basis of circumstantial evidence, three requisites must concur: (a) there must be more than one circumstance; (b) the circumstances from which the inferences are derived are proven; and, (c) the combination of all the circumstances is such as to prove the guilt of the accused beyond reasonable doubt.[10] In the case at bench, it does not require much analysis to conclude that the circumstance relied upon to establish Rogelio Ilaoa's guilt, i.e., the alleged dragging of the deceased to his brother's apartment, is totally inadequate for a conviction, having miserably failed to meet the criteria. This is especially so where the veracity of such circumstance is even open to question. While Antonio Ramos and Abdulia Logan testified that Rogelio Ilaoa helped his brother drag the deceased to his apartment, Eustancia Bie who claimed to have witnessed the same incident positively testified that it was Ruben Ilaoa and Julius Eliginio who did so.[11] Rogelio Ilaoa was not mentioned. Not having been adequately established, in addition to being uncorroborated, such circumstance alone cannot be the basis of Rogelio's conviction.

Ruben's case, however, is a totally different matter. Unlike that of his brother, Ruben Ilaoa's fate was most definitely assured by the unbroken chain of circumstances which culminated in the discovery of Nestor de Loyola's decapitated body in the early morning of 5 November 1987.

As found by the trial court, in the late evening of 4 November 1987, appellant Ruben Ilaoa was engaged in a drinking session with the deceased Nestor de Loyola together with several others. Ruben was heard arguing with Nestor. A few moments later, Ruben mauled and kicked the deceased with the help of their drinking companions just outside Ruben's apartment. As the deceased cried "Aray! Aray!" and "Pare, bakit 'nyo ako ginaganito? Hirap na hirap na ako!" appellant dragged the deceased with the help of Julius Eliginio to the apartment from where a man's cries were continued to be heard later. To further seal the case against him, Ruben borrowed Alex Villamil's tricycle at two o'clock in the morning of 5 November 1987 on the pretext that a neighbor was about to give birth and had to be rushed to the hospital. However, he was seen driving the tricycle alone with a sack placed in the sidecar. The sack looked as if it contained a human body.[12] Then, an hour later, or at three o'clock in the morning, the tricycle was returned with bloodstains on the floor.

For his defense, appellant Ruben Ilaoa does not dispute the testimony of an eyewitness that he was driving the tricycle at past two o'clock in the morning with the sack in the sidecar. However, he claims that the sack contained buntot ng pusa, a local term for marijuana, not a human body, which he delivered to a designated place in Fields Avenue as a favor to his compadre Nestor de Loyola whom he could not refuse. Moreover, it was the vomit discharged by his drinking companions that was being swept clean by his girlfriend at the entrance of their apartment in the early morning of 5 November 1987, not blood as the witnesses asseverated.

We find the version of the prosecution more persuasive than the defense. The fact that appellant quarreled with the deceased, then mauled and pulled him to the apartment where the latter was last seen alive, in addition to borrowing a tricycle which was found with bloodstains when returned, sufficiently point to Ruben as the culprit responsible for the crime. The fact that the deceased was his compadre, hence, presumably would have no motive

to kill the latter, is not enough to exculpate appellant. It is a matter of judicial knowledge that persons have been killed or assaulted for no apparent reason at all,[13] and that friendship or even relationship is no deterrent to the commission of a crime.[14]

If we are to believe appellant Ruben, we will not be able to account for the blood found on the floor of the tricycle after it was brought back to the owner. Ruben himself could not explain away such testimony for he belied the excuse that the tricycle was needed to rush a pregnant woman to the hospital, which was the explanation he gave to Alex Villamil when he borrowed it. We cannot even consider that the story about the blood on the tricycle was simply concocted by Alex Villamil to incriminate Ruben because the latter was his friend, as Ruben himself has admitted.[15] In fact he could think of no reason for Alex Villamil to testify falsely against him.[16]

Despite the foregoing, however, we hold appellant liable only for homicide, not murder, on the ground that the qualifying circumstances alleged in the information, namely, abuse of superior strength, cruelty and evident premeditation, were not sufficiently proved to be appreciated against appellant.

Abuse of superior strength cannot be considered because there was no evidence whatsoever that appellant was physically superior to the deceased and that the former took advantage of such superior physical strength to overcome the latter's resistance to consummate the offense.[17] The fact that Nestor de Loyola's decapitated body bearing forty-three (43) stab wounds, twenty-four (24) of which were fatal,[18] was found dumped in the street is not sufficient for a finding of cruelty where there is no showing that appellant Ruben Ilaoa, for his pleasure and satisfaction, caused Nestor de Loyola to suffer slowly and painfully and inflicted on him unnecessary physical and moral pain.[19] Number of wounds alone is not the criterion for the appreciation of cruelty as an aggravating circumstance.[20] Neither can it be inferred from the mere fact that the victim's dead body was dismembered.[21] Evident premeditation cannot likewise be considered. There is nothing in the records to show that appellant, prior to the night in question, resolved to kill Nestor de Loyola, nor is there proof to show that such killing was the result of meditation, calculation or resolution on his part. On the contrary, the evidence tends to show that the series of circumstances which culminated in the killing constitutes an unbroken chain of events with no interval of time separating them for calculation and meditation. Absent any qualifying circumstance, Ruben Ilaoa should only be held liable for homicide.

The penalty prescribed for homicide in Art. 249 of the Revised Penal Code is reclusion temporal. Applying the Indeterminate Sentence Law, and in the absence of any mitigating or aggravating circumstances, the maximum shall be taken from the medium period of reclusion temporal, which is fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months, while the minimum shall be taken from the penalty next lower in degree, which is prision mayor, in any of its periods, the range of which is six (6) years and one (1) day to twelve (12) years.

In line with present jurisprudence, the civil indemnity fixed by the court a quo for the death of Nestor de Loyola is increased from P30,000.00 to P50,000.00.

WHEREFORE, the judgment finding accused RUBEN E. ILAOA guilty beyond reasonable doubt is AFFIRMED but only for homicide, instead of murder. Consequently, he is sentenced to an indeterminate prison term of eight (8) years, ten (10) months and twenty (20) days of prision mayor medium, as minimum, to sixteen (16) years, four (4) months and ten (10) days of reclusion temporal medium as maximum. In addition, accused-appellant RUBEN E. ILAOA is ordered to pay the heirs of Nestor de Loyola P50,000.00 as civil indemnity and, as fixed by the court a quo, P46,765.00 as actual damages, P10,000.00 as reasonable attorney's fees and expenses of litigation, and P10,000.00 for moral damages.

Accused-appellant ROGELIO E. ILAOA, however, is ACQUITTED of the crime charged for obvious

insufficiency of evidence.

SO ORDERED.

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

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- [1] Decision penned by Judge Reynaldo B. Daway, Regional Trial Court of Angeles City, Branch 58, Rollo, pp. 81-88.
- [2] TSN, 17 October 1989, pp. 16-17.
- [3] TSN, 4 May 1988, p. 31; 17 October 1989, p. 11.
- [4] TSN, 14 November 1989, pp. 22-23.
- [5] TSN, 4 May 1988, pp. 34-36; 7 November 1989, pp. 19-21.
- [6] TSN, 13 April 1988, p. 9; 7 November 1989, p. 22.
- [7] TSN, 24 October 1989, p. 20.
- [8] TSN, 13 April 1988, pp. 14-15.
- [9] TSN, 4 May 1988, p. 42.
- [10] Sec. 4, Rule 133, Rules of Court.
- [11] TSN, 7 November 1989, pp. 19-21.
- [12] TSN, 4 May 1988, p. 38; Original Records, p. 61.
- [13] *People v. Basadre*, No. L-36383, 17 April 1984, 128 SCRA 641, 648; *People v. Reyno*, No. L-19071, 30 April 1965, 13 SCRA 647, 651-652.
- [14] *People v. Bicog*, G.R. No. 76529, 19 July 1990, 187 SCRA 556, 564.
- [15] TSN, 5 January 1990, p. 30.
- [16] *Ibid.*
- [17] *People v. Montilla*, G.R. No. 95048, 3 July 1992, 211 SCRA 119, 128; *People v. Canciller*, G.R. No. 97296, 4 March 1992, 206 SCRA 827, 833; *People v. Jimenez, Jr.*, G.R. No. 84276, 13 February 1992, 206 SCRA 214, 222.
- [18] TSN, 4 May 1988, pp. 12-13; Original Records, pp. 35-36.
- [19] *People v. Luna*, No. L-28812, 31 July 1974, 58 SCRA 198, 209; *People v. Llamera*, Nos. L-21604-5-6, 25 May 1973, 51 SCRA 48, 60.
- [20] *People v. Tonog, Jr.*, G.R. No. 94533, 4 February 1992, 205 SCRA 772, 782; *People v. Manzano*, Nos. L-33643-4, 31 July 1974, 58 SCRA 250, 262.
- [21] *People v. de Pascual*, No. L-32512, 31 March 1980, 96 SCRA 722, 738.

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