

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PILAR AMPARO PINZON, ENRICO VILLANUEVA AND ORLANDO CABRERA, ACCUSED, ENRICO VILLANUEVA AND ORLANDO CABRERA, ACCUSED-APPELLANTS.

G.R. No. 94757. February 07, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The appellants, Enrico T. Villanueva, Orlando Cabrera and Pilar Amparo Pinzon, were charged with the crime of Robbery with Double Homicide as defined and penalized in Articles 293 and 294, paragraph 1, of the Revised Penal Code committed as follows:

"That on or about the 8th day of February, 1988 in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding with one another, armed with bladed instrument, with intent of gain and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously take, steal and carry away the following items to wit:

1.

one (1) set lady's earring with 2 diamond stones

-

P 24,000

2.

one (1) set 12K gold lady's earring and ring

-

12,000

3.

one (1) pair 12K gold earrings with eight diamond stones

-

10,000

4.

one (1) pair 14K white gold earrings with six diamond stones

-

8,000

5.

one (1) lady's ring with 12 diamond stones

-

5,000

6.

one (1) men's ring (rositas) with 7 diamond stones

-

4,000

7.

one (1) lady's gold bracelet

-

3,000

8.

one (1) lady's gold ring 14K with 36 brillantitos

-

8,000

9.

one (1) set lady's earring and gold ring

-

2,000

10.

one (1) set lady's earring and gold ring with 6 brillantitos

-

3,000

11.

one (1) set lady's ring and earring jade stone with gold setting

-

4,000

12.

one (1) set dangling earring 12K

-

1,000

13.

one lady's ring with ruby stone with brilliantitos

-

2,000

14.

one (1) pair star shape gold earring with 2 diamond stones

-

4,000

15.

12 pieces loose birth stones assorted colors

-

3,000

all in the total amount of P93,000 belonging to one Dolores Lugos to the damage and prejudice of the said owner thereof in the aforementioned amount of P93,000; and that by reason and on the occasion of the said robbery, the above named accused, with intent to kill and with the use of the said bladed instrument, did then and there willfully (sic), unlawfully and feloniously stab Maria Stella Lugos and Serafia Cruz on the vital parts of their body, thereby inflicting upon them mortal wounds which were the direct and immediate cause of their death thereafter." (pp. 23-24, Rollo.)

Upon arraignment, the three accused pleaded "Not Guilty" (p. 221, Rollo). Trial on the merits ensued and a decision was rendered on June 18, 1990 by the Regional Trial Court, Branch 152, National Capital Judicial Region, finding Villanueva and Cabrera guilty as charged but acquitting Pinzon on the ground that her guilt was not proven beyond reasonable doubt (p. 19, Decision). The dispositive portion of the decision reads:

"WHEREFORE, premises considered, the Court finds the accused Enrico T. Villanueva alias Ricky and Orlando S. Cabrera alias Orlan guilty beyond reasonable doubt of the crime of Robbery with Double Homicide defined and punished under Article 293 in relation to Article 294 paragraph 1 of the Revised Penal Code without any mitigating nor aggravating circumstance attendant thereto and sentences each of them to suffer the penalty of reclusion perpetua, to indemnify Mrs. Dolores Lugos the sum of P93,000.00 value of the stolen property, and the heirs of the deceased Maria Stella Lugos and Serafia Cruz the amount of P30,000.00 each as damages without subsidiary imprisonment in case of insolvency with the accessories of the law and to pay the costs." (p. 123, Rollo.)

The facts of the case, as culled from the decision of the trial court, are the following:

In the morning of February 8, 1988 Mrs. Dolores Lugos left her house at No. 4-N Jimenez St., Calawaan, Pasig, Metro Manila for the Asian Development Bank at Makati where she works as internal auditor.

At about noontime she was summoned to go home because of an emergency. Upon arrival she was shocked to see that her 24-year old daughter, Maria Estela, and the househelp, Serafia Cruz, were dead and lying in a pool of blood in different parts of the house. Mrs. Lugos stayed for the meantime in the house of a neighbor.

In the afternoon of February 10, 1988 she returned to her house and noticed that her small jewelry box which she kept in a drawer was missing. The pockets of all the clothes hanging in a closet had been turned out. She gave a written statement to the police (Exhs. A and A-1) of the things that were lost worth P93,000.

Pat. Mones who was initially assigned to the case made sketches and took pictures of the crime scene. The body of the househelper Serafia Cruz, was found in the comfort room while Maria Estela's body was found on the second floor.

Dr. Desiderio Moraleda of the PC/INP Crime Laboratory, who made an autopsy of the cadaver of Maria Estela Lugos on February 8, 1988, found seventeen (17) stab wounds on different parts of her body. The cause of death was cardio-respiratory arrest due to shock as a result of multiple injuries of the neck and trunk. The wrists had ligature marks indicating the victim had been tied with a rope or wire.

The cadaver of Serafia Cruz bore fourteen (14) stab wounds in different parts of the body. Both feet had ligature marks indicating she had been tied.

Leopoldo Ramos, chief of the barangay tanods of Calawaan, received raw information that one of the tricycles from San Joaquin could have been used by the suspects because no motor vehicle was seen parked near the Lugos residence. A tricycle driver, Albino Tero, informed him that sometime on February 9, 1988 he read in a newspaper about the killing in Calawaan. Tero believed that three persons who were his passengers on February 8, 1988 may have something to do with the crime.

According to Tero between 11 and 12 in the morning of February 8, 1988 while his tricycle was parked at Elisco Road, San Joaquin, Pasig, a woman hired him to take her to Purok 3, Calawaan. He later identified the woman as the accused Pinzon. On the way, they met another tricycle with two male passengers who called out to his (Tero's) female passenger. When Tero stopped his tricycle, the two male passengers transferred to his tricycle. They told him to turn back to San Joaquin. He identified one of the male passengers as the accused Villanueva who sat beside Pinzon.

The male passenger who rode behind him told him to proceed to the old market. While cruising down San Joaquin bridge, Tero noticed that the right leg of Villanueva's pants had blood stains on it. Villanueva explained that they had figured in a fight at Calawaan.

On the way to the old market site the two male passengers were grabbing for possession of some jewelries. The woman passenger told them to stop and they obeyed. At Kapasigan his three passengers alighted at a small alley.

Tero was endorsed to P/Sgt. Antonio Sityar, head of the follow-up team. Tero pointed to him the place where his passengers alighted. Thru the grapevine, Sgt. Sityar learned about the identities of the possible suspects - Pinzon and Villanueva.

Sgt. Sityar's team went to the place of Pinzon and Villanueva (who are live-in partners). Sityar invited them for questioning. When he was about to frisk them for weapons, Villanueva threw his wallet inside the house.

The wallet was recovered and was found to contain loose birthstones (Exhibit K) a child's earring (Exhibit I) and money in the amount of P5,462.41. The articles, except the money, were identified by Mrs. Lugos as among the things that were taken from her house during the robbery.

Pinzon and Villanueva were brought to the police station where Tero identified them as two of his passengers on February 8, 1988. Tero pointed to Villanueva as the passenger whose pants had blood stains. He pointed to Pinzon as the woman who hired his tricycle from San Joaquin to Calawaan.

During the investigation by the police, both Pinzon and Villanueva denied involvement in the crime but Villanueva unwittingly mentioned the name "Orlan" who resides at Palatiw, Pasig. Patrolman Eduardo Martin said he knew a person called "Orlan" in Palatiw so he joined the follow-up team that went to the place.

Pat. Cuevas of the Pasig Police informed the policemen on the case that he saw the three suspects in the morning of February 8, 1988 sitting together on a bench in front of the barangay tanod outpost. One of them had rosary around his neck.

The policemen who went to look for Orlan found him in a neighbor's house pretending to be asleep. Pat. Cuevas identified Orlan (Orlando Cabrera) as one of the men he saw at Calawaan in the morning before the commission of the crime.

Cabrera, assisted by Atty. Oscar Saldivar of the then Citizens Legal Assistance Office, was investigated by P/Cpl. Bugnot. He gave a written statement (Exh. I) which he signed and swore to before Fiscal Bargas.

He disclosed in his statement the following:

That at about 7:00 a.m. on February 8, 1988 he went to the house of Villanueva and Pinzon to get his fighting cock which he wanted to sell because he needed money to redeem a necklace which he had pawned for P2,000.00. Villanueva did not agree and instead invited Cabrera to go with him.

Together with Pinzon they rode on a tricycle up to the library in Pasig and then rode on a passenger jeep to San Joaquin. Cabrera asked Villanueva where they were going. The latter said they would pass by the house of his aunt.

From the library they rode again on a tricycle to Calawaan where they alighted at the waiting shed. They drank pepsi cola at a store until 9:30 a.m.

Afterwards they walked to the house of Villanueva's aunt (actually the house of Dolores Lugos) which was about 50 meters distant from the store. Villanueva and Pinzon knocked on the gate but someone told them to use the other gate where they saw the aunt (Serafia Cruz) who ushered Villanueva and Pinzon to the garden. Villanueva, Pinzon and Serafia entered the house. Cabrera was left outside the gate.

Later, Villanueva came out and told Cabrera to come inside the house. Upon entering, Villanueva pulled out a knife and poked it at Serafia Cruz who asked: "Ricky what is this all about?" Villanueva answered, "Nothing, just enter there." When they reached the kitchen Villanueva and Pinzon tied her up with a straw and covered her mouth. Villanueva ordered Cabrera to watch her.

Villanueva and Pinzon went up to the second floor of the house. After ten minutes, Pinzon came down and told Cabrera that Villanueva needed him.

Cabrera went upstairs and saw Villanueva poking a knife at Maria Estela Lugos. Maria Estela asked Villanueva, "What does this mean Ricky?" The latter asked: "Where is the money of your mommy?" Maria Estela answered "I do not know kuya Ricky."

Villanueva got an electric cord and tied up Maria Estela. Cabrera ransacked the room upon orders of Villanueva. When Cabrera could not find any valuables Villanueva told him to watch Serafia downstairs and continued to ransack the room. Villanueva found something in a drawer and placed it inside his pocket.

Villanueva ordered Cabrera to call Pinzon who went upstairs. When Pinzon was already upstairs Villanueva went down and stabbed Serafia Cruz several times. Then Villanueva ordered Cabrera to call for Pinzon.

Villanueva went upstairs again and stabbed Maria Estela several times. Villanueva and Cabrera went downstairs together. Villanueva told Pinzon to go out of the house and get a tricycle. Because it took Pinzon a long time to find a tricycle, Villanueva and Cabrera got out of the house. They were able to board a tricycle. Upon reaching the vicinity of Elisco Road, they met Pinzon on another tricycle. They transferred to Pinzon's tricycle and alighted at the old market. Cabrera went home. The following morning Villanueva arrived at Cabrera's house and gave him P5,000.

On February 10, 1988 another investigator questioned Emilio Demaano. He informed that at about 10:00 o'clock in the morning of February 8, 1988 he was sitting on a jeep in front of the Lugos house waiting for his employer who lives across the street from Mrs. Lugos' house. He saw a man and a woman knocking at the gate of the Lugos residence. Nobody answered so he (Demaano) advised them to knock on the other gate. They did as they were told. After a while Serafia Cruz came out. After talking for about ten minutes, the man and the woman left the place. Not long afterwards the woman returned alone and talked again with Serafia Cruz. She also left and walked toward the "labasan." A man later passed in front of him (Demaano) and walked around the Lugos residence and left. Demaano also left. He learned about the killing in the Lugos residence at about 4:00 o'clock in the afternoon of the same day.

Demaano identified Cabrera as the third man who passed in front of him and walked around the Lugos residence in the morning of February 8, 1988 and who at that time wore a rosary on his neck which attracted Demaano's attention.

The accused-appellants, in their respective appeal briefs, allege that the trial court erred:

1. in convicting them on the basis of circumstantial evidence (p. 223, Rollo) and
 - a. in admitting the sworn statement of accused Cabrera, which was given during custodial investigation in violation of his constitutional rights (p. 138, Rollo);
 - b. in convicting Villanueva on the basis of Cabrera's extrajudicial confession (p. 223, Rollo); and
2. in finding that a conspiracy was established by the prosecution (p. 23, Appellant's Brief).

The appeal is devoid of merit.

The appellants were convicted on the basis of circumstantial evidence. There was no direct evidence proving that they robbed Dolores Lugos' house and killed her daughter, Maria Estela Lugos and the maid, Serafia Cruz. Nevertheless, the rule is that circumstantial evidence is sufficient to convict if: (1) there are more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt (Section 5, Rule 133 of the Revised Rules of Court; *People vs. Modesto*, 25 SCRA 36). Although no general rule has been formulated regarding the quantity of circumstantial evidence which will suffice for any case, all that is required is that the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilt (*People vs. Constante*, 25 SCRA 653; *People vs. Caneda*, 12 SCRA 9).

In the case at bar, the circumstantial evidence adduced by the prosecution sufficiently satisfies the quantum of proof necessary for conviction. The following circumstances, proven by the prosecution, point to the accused-appellants as the perpetrators of the crime:

First, Demaano testified that at about 10:00 o'clock in the morning of February 8, 1988, he saw appellant Villanueva, together with Pinzon and Cabrera, in front of the gate of the victims' house. He further testified that appellant and Pinzon entered the house of the victims while Cabrera was left outside the house.

Second, Tero testified that between 11:00 to 12:00 o'clock in the morning of February 8, 1983, Pinzon hired his tricycle and instructed him to proceed to Purok 3 Calawaan, Pasig. Before reaching Calawaan, they met a tricycle with Villanueva and Cabrera on board, who called his (Tero's) passenger (Pinzon). When Tero stopped his tricycle, Villanueva and Cabrera transferred to his tricycle and told him to go back to San Joaquin. On their way to San Joaquin, Tero noticed blood stains on the pants (right leg) of Villanueva.

Third, Tero further testified that while still on board his tricycle he saw Villanueva and Cabrera grabbing for

possession of pieces of jewelry. The jewels were identified by Dolores Lugos as hers.

Fourth, when Villanueva was apprehended by the police, appellant's wallet yielded loose stones and a child's earring, which were later identified by Dolores Lugos (mother of the victim, Maria Estela) as some of the jewels she owned and which were lost during the robbery.

Since the three accused were the last persons seen going inside the house of the victims and were later found in possession of jewels stolen from the victims the inference is that as they committed the robbery on the occasion of which the victims were killed, they also committed the killings.

Appellant Cabrera assails the trial court's reliance on his extrajudicial confession which is allegedly inadmissible as evidence because it was extracted from him without complying with the requirements in Section 12, Article III of the Constitution, which are:

(1) that the arresting officer inform him of the reason for his arrest; (2) he shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him; (3) the person arrested shall have the right to communicate with his lawyer, or anyone he chooses by the most expedient means - by telephone, if possible, or by letter, or messenger. The arresting officer shall see to it that this is accomplished. (4) No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either by the detainee himself or by anyone on his behalf.

There is no merit in the above argument. We agree with the Solicitor General's view that:

"x x x the entire process of custodial investigation was conducted in the manner required by the Constitution. Atty. Saldivar informed appellant of the latter's right to remain silent, as anything he says in said investigation could be used against him. Appellant was likewise informed of his right to counsel and that if he could not afford to pay [for] the services of one, he could avail of the free legal services of the CLAO, which offer appellant accepted. By said acceptance, Atty. Saldivar became appellant's counsel of choice, and the fact that appellant had no previous acquaintance with Atty. Saldivar did not render null and void appellant's otherwise valid extrajudicial confession. Atty. Saldivar was present from the time appellant's statements were taken up to the time appellant affixed his signature thereon. In fact, Atty. Saldivar's signature appears on the statement. Plainly, the admission in evidence of appellant's sworn statement does not suffer from any constitutional infirmity." (p. 157, Rollo.)

Appellant Villanueva's contention that the lower court erred in convicting him of the robbery with double homicide on the basis of Cabrera's extra-judicial confession is not well taken for his conviction was in fact based on circumstantial evidence. The trial court categorically stated thus:

"Cabrera's extra judicial confession is sufficiently corroborated by the corpus delicti. He was also pointed to by Emilio Demaano as one of the three persons in the vicinity of the Lugos residence before the discovery of the crime.

"However, the statement is not admissible against Villanueva and Pinzon for being 'res inter alios acta.'" (pp. 240-241, Rollo.)

The appellants also assail the trial court's finding of a conspiracy among them to commit the crime charged.

A conspiracy need not be proven by direct evidence. Proof of previous agreement to commit the crime is not essential to establish a conspiracy. It may be inferred from the acts of the accused (*People vs. Abueg*, 145 SCRA 622). The conduct of the accused-appellants before, during, and after the commission of the crime may be considered to show the existence of a conspiracy (*People vs. Cabiltes*, 25 SCRA 112). It is sufficient that the accused be shown to have acted in concert pursuant to the same objective (*People vs. Abueg*, *supra*). And where a

conspiracy is proven, a showing as to who inflicted the fatal wound is not required to sustain a conviction (*People vs. Tala*, 141 SCRA 240).

The Solicitor General correctly observed that --

"The abovementioned acts of appellant [Cabrera], albeit done upon instructions of his co-accused Villanueva, clearly show that he and Villanueva entertained a common resolve to cart away valuables from the house of Maria Dolores Lugos and to silence anybody who would prevent them from doing so. It is thus clear that appellant, based on his extrajudicial admission, conspired with co-accused Villanueva in the commission of the crime charged. Thus, although it was not shown that appellant asported any of the missing pieces of jewelry, or inflicted any fatal wound on Maria Estela and Serafia, appellant, as co-conspirator, was correctly held liable as principal. In a conspiracy, the act of one is the act of all (*People vs. Beltran*, 138 SCRA 521 [1985]; *Pring vs. Court of Appeals*, 138 SCRA 155 [1985]).

"That the overt acts of appellant [Cabrera] in the commission of the subject felony were all done upon instructions of [his] co-accused Villanueva, does not negate conspiracy. For conspiracy to exist, it is enough that the malefactors be shown to have a common purpose and were united in the execution of the felony (*People vs. Dorico*, 54 SCRA 172), although there is no agreement as to the details on how the felony is to be executed." (pp. 151-152, Rollo.)

"It should be emphasized that in so far as appellant is concerned conspiracy is immaterial to prove his guilt. It has been satisfactorily shown through circumstantial evidence, earlier adverted to, that appellant was one of the perpetrators of the crime charged.

"Moreover, while it is true that an extra-judicial confession is admissible only against the person who made the same, it is, however, the rule that it may be admitted as corroborative evidence of other facts that tend to establish the guilt of the other defendants (*People vs. Simbajon*, 15 SCRA 83 [1965]). In the case at bar, the above-referred circumstantial evidence, clearly corroborated by the contents of the extra-judicial confession of Cabrera, shows the role played by appellant in the perpetration of the crime charged." (pp. 242-243, Rollo.)

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** except the award of civil indemnity for the death of the two (2) victims, Maria Estela Lugos and Serafia Cruz, which is hereby increased to P50,000 for the heirs of each victim. Costs de oficio.

SO ORDERED.

Narvasa, C.J., Cruz, and Medialdea, JJ., concur.

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