

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARSENIO RAÑOLA, DEFENDANT-APPELLANT.

G.R. No. 95757. August 04, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is an appeal from the decision dated June 18, 1990 of the Regional Trial Court, Fifth Judicial Region, Branch 45, Masbate, Masbate in Criminal Case No. 2493 entitled "People of the Philippines v. Arsenio Rañola," finding accused-appellant guilty beyond reasonable doubt of the crime of murder, qualified by treachery, sentencing him to suffer the penalty of reclusion perpetua, and further ordering him to indemnify the heirs of the victim the sum of P30,000.00.

The Information under which appellant was charged was dated October 30, 1979. It read as follows:

"That on or about August 11, 1977, in the evening thereof, at Barangay Lalaguna, Municipality of Mobo, Province of Masbate, Philippines, within the jurisdiction of this court, the said accused with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault and hack with a bolo one Aleto (sic) Sanay while the latter was sleeping, hitting him on the different parts of the body, thereby inflicting wounds which directly caused his instantaneous death.

"Contrary to law." (Rollo, p. 4)

Upon arraignment on May 14, 1980, the accused, duly assisted by counsel de oficio, waived the reading of the information and entered a plea of "not guilty."

After trial, the lower court rendered a decision on June 18, 1990, the dispositive portion thereof states:

"IN VIEW OF THE FOREGOING, this court finds the accused Arsenio Rañola guilty beyond reasonable doubt of the crime of Murder, qualified by treachery, he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to indemnify the heirs of the offended party in the amount of Thirty Thousand (P30,000.00) Pesos.

"His bond posted for his provisional liberty is hereby ordered cancelled.

"SO ORDERED." (Rollo, p. 19)

Hence, this appeal from the lower court's decision raising the following assignment of errors:

"A. THE TRIAL COURT ERRED IN UPHOLDING THE COMPLAINT OF THE PROSECUTION DESPITE THE INORDINATE AND UNREASONABLY LONG DELAY IN FILING THE INSTANT CASE GIVING MOST SERIOUS DOUBTS TO ITS CREDIBILITY.

"B. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION'S SINGLE EYEWITNESS DESPITE INCREDIBLE AND ABSURD ALLEGATIONS ON MAJOR POINTS OF SUCH TESTIMONY.

"C. THE TRIAL COURT ERRED IN ITS JUDGMENT DESPITE THE PROSECUTION'S FAILURE TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT." (Rollo, p. 49)

The antecedent facts of this case as recounted by prosecution's witness Richelda Sanay are as follows:

"xxx. (O)n the night of August 11, 1977, while she and her family were sleeping in their house at Lalaguna, Mobo, Masbate, she was awoken (ed) by a noise. She immediately stood up holding her child. She looked around and saw Arsenio Rañola hacking Alito Sanay, her younger brother. She hid behind the post which was dark, while her husband and her sons jumped out of the house passing thru the other door. While Arsenio kept on hacking Alito, his mother and wife arrived. Arsenio told them, 'come up, see for yourselves, Alito, I have already killed him.' (His) mother answered, 'good that you have already killed him,' and she further said 'you surrender now.' Arsenio answered yes and told her (mother-in-law) that he will go home first to change his clothes. Thereafter, Arsenio went to his house bringing with him the bolo. Arsenio together with his wife returned. In the yard (there) were barangay officials. Arsenio informed the barangay (officials) that he was the one who killed Alito Sanay and showed them the bolo. The barangay officials advised Arsenio to surrender to the authority. She further testified that the motive why Arsenio killed Alito is because Alito was angry because Arsenio attempted to molest Alito's two sisters. Also Arsenio and (his) mother-in-law made copra surreptitiously in the property of Alito's parents." (Rollo, pp. 13-14)

The post-mortem examination conducted by Dra. Conchita Ulanday on the body of the deceased shows that Alito Sanay suffered twenty-nine (29) wounds on the different parts of his body, (Exhs. A and "A-1"). Wounds no. 5, 9 and 13 were considered fatal. (Exh. "B" certificate of death) (Rollo, p. 18)

The lower court noted that the infliction of as many as twenty-nine (29) wounds on the deceased raises a very strong possibility that he was assaulted while asleep, as testified to by his sister-in-law Richelda Sanay and corroborated by the post-mortem report.

Appellant vehemently denied the charge of murder and interposed the defense of alibi. He claimed that at 8 o'clock in the evening of August 11, 1977, he was already resting in their house at Mabiton, Lalaguna, Mobo, Masbate, up to 11 o'clock when he was informed by Noli Malayahay that Alito was already dead. (see Rollo, p. 15)

However, the lower court found that the defense of alibi should fail for the following reasons, to wit:

- "1. The accused has been sufficiently identified by his sister-in-law Richelda Sanay.
- "2. The scene of the crime is about one kilometer away from the house of the accused which can be negotiated in twenty (20) minutes by hiking, that it was not impossible for the appellant to be in the former place.
- "3. 1st Sgt. Felizardo Dante testified that he personally knew Arsenio Rañola who surrendered to their station on August 12, 1977, alleging that he hacked Alito Sanay with the bolo. Recorded in the police blotter. (Exh. "C") People v. Tome, 123 SCRA 88)" (Rollo, pp. 18-19)

The trial court correctly rejected the appellant's defense of alibi in view of the clear and positive identification by the lone witness Richelda Sanay of the accused-appellant as the killer of her younger brother.

Courts always receive with caution, if not suspicion, evidence of alibi, "not only because it is inherently weak and unreliable, but also because of its easy fabrication. To overcome the evidence of the prosecution, an alibi must satisfy the test of 'full, clear, and satisfactory evidence.' This test requires not only proof that the accused was somewhere else other than the scene of the crime, but clear and convincing proof of physical impossibility for the accused to have been at the place of the commission of the crime." (People v. Baring, G.R. No. 87017, July 20, 1990, 187 SCRA 629, 635 citing People v. Gaddi y Catubay, 170 SCRA 649).

Aside from the fact that the accused-appellant did not present evidence to corroborate his defense of alibi, the records of the instant case are bereft of any showing that the appellant 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.

Appellant claims that at 8 o'clock in the evening of August 11, 1977, he was already resting in their house when he was informed by Noli Malayahay of Alito's death. It appears on record that the house of the deceased is about a kilometer away from the house of the accused-appellant or about twenty (20) minutes to negotiate the place by walking as testified to by defense witness Oscar Abaño. (tsn, p. 5, 7/7/83) Rollo, p. 15). Hence, the accused-appellant had more than enough time to commute or even walk to and from his house to the scene of the crime then back to his house again.

If the required physical impossibility of being present at the scene of the crime is not proved, alibi as a defense becomes unavailing to the accused (People v. Sorio, G.R. No. 86211, October 17, 1990, 190 SCRA 548, 555).

Besides, the defense of alibi cannot prevail over the positive identification of the accused (People v. Sorio, *ibid*, citing People v. Felix Raquipo y Tolentino, G.R. No. 90766, August 13, 1990). The lone prosecution eyewitness categorically pointed to the accused-appellant as the perpetrator of the crime under consideration. The testimony of a lone prosecution eyewitness, as long as credible and positive can prove beyond reasonable doubt the guilt of the accused especially when, as in the instant case, the evidence for the defense consists merely of denials and alibis (People v. Sorio, *ibid*, pp. 555-556).

Appellant submits that the inordinate and unreasonably long delay in filing the case gives most serious doubts as to its veracity and leads to the conclusion that the prosecution's allegation was concocted. He argued that the alleged incident occurred on August 11, 1977 but the instant case was filed only on September 27, 1979, or exactly two (2) years, one (1) month and 16 days from the alleged commission of the crime.

Answering this contention, appellee stresses that the alleged long delay in the filing of the case by the victim's father against appellant is justified for the following reasons, to wit:

"1. Appellant is the son-in-law of complainant and the latter was afraid because he was threatened by appellant (p. 5, tsn, February 4, 1981).

"2. Complainant's wife persuaded him not to file the case immediately (p. 5, tsn, February 4, 1981).

"3. It was only when appellant attempted to kill complainant that he filed the instant case (p. 5, tsn, February 4, 1981)." (Rollo, p. 93)

It is therefore not true that the long delay is unreasonable, the same having been sufficiently justified by the circumstances of the case. In the light further of the fact that appellant gave himself up to the police authorities at Mobo, Masbate, as early as August 12, 1977 where he surrendered his bolo and admitted hacking Alito Sanay (pp. 3-4, tsn, November 13, 1980) and which fact is duly recorded in the police blotter, no serious doubts on the veracity of the complaint can effectively be raised.

Appellant likewise claims that the trial court erred in giving credence to the testimony of the prosecution's single eyewitness despite incredible and absurd allegations. Appellant claims that the declaration of Richelda Sanay that her husband and son jumped out of their house passing through the other door and it was not until morning that her husband returned is absurd since no husband would leave his wife and child alone while a crime is being committed in their presence.

The argument is untenable because Richelda's husband could have jumped out of the house to avoid a possible attack upon him by the appellant. Besides, there is no standard form of behavior when one is confronted by a

shocking incident. Different people react differently to a specific situation.

The fact that Richelda's estimate of the length of time within which the hacking took place is too long, i.e., one hour, does not render her testimony unworthy of belief. It is not unnatural for a witness who sees a terrifying scene to perceive that the hacking seemingly lasted like eternity especially when considered with the post-mortem examination conducted by Dra. Conchita Ulanday showing that the victim suffered 29 wounds on different parts of his body. The infliction of several wounds naturally took a long period of time.

Thus, We see no reason to deviate from the trial court's observation that Richelda's testimony bore the earmarks of truth and sincerity having been delivered spontaneously, naturally and in a straight-forward manner. It is a fairly accurate account of the crime in question and coincides with the post-mortem report and the testimony of the investigating officer. In addition, there was no evidence of any ulterior or evil motive on the part of Richelda Sanay that might have led her to testify falsely against the appellant.

It is well-settled that the testimony of a single eye-witness, if found convincing and trustworthy by the trial court, is sufficient to support a finding of guilt beyond reasonable doubt (*People v. Catubig*, G.R. No. 71626, March 22, 1991, 195 SCRA 505, 516).

Finally, appellant emphasizes that the prosecution failed to prove his guilt beyond reasonable doubt on certain major points, which are as follows:

- a. Salvador Halayhay and his sons were never presented in court giving further credence to the assertion of the defense that Richelda's testimony was imagined;
- b. The alleged makeshift police blotter was never presented as documentary evidence for the prosecution;
- c. the bolo allegedly surrendered by accused Rañola belonging to Salvador Halayhay was never presented in court;
- d. it is also of record that a certain Pat. Macadat who allegedly investigated the eyewitness was never presented by the prosecution even if his testimony could have been vital to the prosecution; and
- e. the alleged barangay councilman who immediately went to the house to look at the body of the victim was also not presented in court. (see *Rollo*, pp. 63-64)

These contentions are devoid of merit.

It is up to the parties to determine for themselves whether it is necessary to present corroborating evidence or to rely alone on its principal evidence if they believe this to be sufficient (*People v. Sorio*, *ibid*, p. 556, citing *People v. Octavio Juanga*, G.R. No. 83903, August 30, 1990, 189 SCRA 226). The number of witnesses has nothing to do with the credibility of a witness.

The non-presentation of Salvador Halayhay and his sons, as well as Patrolman Macadat and the members of the Barangay Council, being merely corroborative, is therefore, not fatal to the prosecution's case. Their testimonies could have been merely a duplication of the other prosecution witnesses' testimonies.

Anent the appellant's claim that the alleged police blotter was never presented, the same is belied by the records as the said police blotter was presented by the prosecution and the same was identified by prosecution witness, Sgt. Felizardo Dantes (p. 4, *tsn*, November 13, 1991).

In the light of the foregoing considerations, there is a clear indication that the trial court did not commit any error in finding the appellant guilty beyond reasonable doubt for the death of Alito Sanay.

ACCORDINGLY, the judgment of the trial court dated June 18, 1990 is AFFIRMED except as to the amount of

indemnity the appellant should pay the heirs of the deceased which is hereby increased to P50,000.00.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

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