

PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. MANOLO VILLANUEVA ALIAS "BOY"; VILLANUEVA, ACCUSED.

G.R. No. 95851. March 01, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

It was the town fiesta of San Pablo, Laguna. But what could have augured an otherwise festive atmosphere was preempted by the discovery of the lifeless body of a barrio lass sprawled on the cold cement floor of their conjugal home. Blood was oozing out of her mouth. She was six months pregnant. The suspected assailant was her husband who allegedly beat her to death after she slapped him earlier in front of his friends.

Charged with and convicted of parricide with unintentional abortion MANOLO VILLANUEVA also known as "Boy" Villanueva is now before us still professing innocence. He claims that he was watching a live concert when his wife, Nora Magpantay, 19, committed suicide by taking sodium cyanide. She was supposedly burdened with family problems and wanted to follow the footsteps of her sister who had earlier taken her life.

But the evidence shows otherwise. Isidro Magpantay, father of Nora, testified that on 14 January 1989, at around five or six o'clock in the afternoon, he went to the house of his daughter where she and Manolo were engaged in a heated argument. Manolo was drunk. After seeing his son-in-law slap his daughter, Isidro felt bad and left. [1]

The following morning, at around five o'clock, Isidro was informed by Manolo's parents that Nora had poisoned herself. [2] Forthwith, Isidro went to the hospital to look into the medical records of his daughter. But failing to find any, he proceeded to the funeral parlor where he saw his lifeless daughter with contusions on the right cheek, breast, abdomen and at the back of her left ear. Her mouth was swollen. Her forearms were raised; he straightened them. [3]

To augment the testimony of Isidro and to refute altogether the alibi of the accused, 15-year old Abigail Bandy narrated that on 14 January 1989, at around seven-thirty in the evening, while in the house of Manolo and Nora, she witnessed the accused mauling Nora for about fifteen (15) minutes, striking Nora several times in the stomach below her left breast and in different parts of her body over Nora's incessant pleas "[t]ama na Boy." But Manolo would not stop until Nora fell unconscious on the cement floor. Then Manolo left. After making sure he had already gone Abigail went home leaving Nora behind. [4]

Dr. Nida Glorioso, City Medical Officer, recounted that on 15 January 1989, at around nine-fifteen in the morning, she examined the cadaver of Nora and found a "contusion on the left cheek including the lateral aspect of the eye" [5] which could have been caused by a clenched fist, a kick, a piece of wood, a broken bottle or any hard object. [6] She also noticed a "bloody mucoid discharge com(ing) out from her mouth." [7] She then proceeded to open her abdomen to determine the presence of poison as it was alleged by the victim's husband that his wife had poisoned herself. The abdomen of the victim however failed to emit the characteristic odor of a chemical poison, negating the allegation that the victim had poisoned herself.

Nevertheless, to completely rule out poisoning as the cause of death the victim's stomach and intestines were sent to the PC Crime Laboratory in Camp Crame, Quezon City, for a "chemical analysis." [8] Capt. Luena E. Layador of the PC Crime Laboratory disclosed that "[t]oxicological examination conducted on the above-mentioned specimen gave NEGATIVE result to the tests for common metallic, non-metallic, volatile and non-volatile poisons, cyanides, organic phosphates, organic chlorides." [9] Thus, Dr. Glorioso concluded that "[i]n view of the negative result of the toxicological examination from the P.C. Crime Lab., Camp Crame, Q.C., x x x and considering the contusio-ecchymosis, cheek, lateral aspect of eye, left, the CAUSE OF DEATH is SHOCK DUE TO CEREBRAL CONCUSSION secondary to a severe blow on the head." [10]

Manolo Villanueva however has a different tale. He averred that on 14 January 1989, at around six-thirty in the evening, he went home to change his clothes since he was going to watch the concert of singer Randy Santiago at Canossa College in San Pablo City later that evening. As he was about to leave their house, his wife tried to stop him. His mother who saw them even reprimanded him. [11] Nevertheless, at around seven-thirty, he left the house. [12] He returned at around two-thirty the following morning. After knocking at the door, calling out to his wife but failing to get a response for about thirty minutes, he forcibly opened the door only to find his wife lying prostrate on the floor of their living room. He then noticed the bottle of sodium cyanide, which he was using for poisoning rats, already empty. [13]

On cross-examination, Manolo admitted that on 14 January 1989 he was slapped by his wife in front of his friends which resulted in a little misunderstanding ("tampuhan"). Although embarrassed, according to him, he nonetheless did not get angry. He merely ushered his wife back to their house and then left again. [14]

Sherwin Isleta, 17, took the witness stand for the defense. His house is adjacent to the conjugal home of Manolo and Nora with only a party wall separating the two houses. He said that on 14 January 1989 at around eight o'clock in the evening, he saw Nora sitting near the gate in front of their house, apparently waiting for someone. [15] That was the last time he saw her. At around three o'clock the following morning he was awakened by the loud knock on the neighbor's door and repeated calls for Nora. A little later he heard Manolo screaming, "Nora, Nora, why did you do this?" [16]

In its Decision of 27 April 1990 the Regional Trial Court of San Pablo City, Br. 31, [17] ruled -

A close scrutiny of the evidence discloses that: on January 14, 1989, between 5:00 P.M. and 6:00 P.M. at their house, accused and his wife, Nora, quarreled with the former slapping the latter in the presence of Isidro Magpantay who, after half an hour stay thereat, left them; accused also left and went to his hangout; at 6:30 P.M.; accused returned and in the presence of his friends, was slapped by his wife; between 7:30 P.M. and 8:00 P.M., accused mauled his wife by giving her several fist blows, thereby causing her to fall and hit her head on the cemented floor; also between the same period of time, accused left their house and attended a concert with his friend, Nick Dalisay, from 9:00 P.M. up to 2:00 A.M. of the following day; at 3:00 A.M. of January 15, 1989, accused found the lifeless body of his wife on the cemented floor in the bedroom of their house; at 9:15 A.M., Dr. Glorioso conducted an autopsy on the cadaver and found contusions on the different parts of the body notably, on the left cheek and eye; and, deceased could have died between 9:00 P.M. of January 14, 1989 and 12:00 A.M. of January 15, 1989 (citations omitted), [18] and held that the prosecution was able to establish beyond reasonable doubt that accused is guilty of parricide with unintentional abortion. The accused was initially sentenced to suffer the death penalty which is the penalty for parricide, the more serious crime, applied in its maximum period. But since the death penalty could not at that time be imposed under the 1987 Constitution, the penalty for parricide under Art. 246, The Revised Penal Code, was reclusion perpetua, the penalty next lower to death. However, instead of imposing reclusion perpetua the trial court sentenced the accused to suffer life imprisonment. [19]

A careful review of the transcript of stenographic notes shows that save for minor inconsistencies in the statements of prosecution witnesses which even enhance their truthfulness as they erase any suspicion of being rehearsed, their testimonies were consistent, in accord with one another, and were given in simple, straightforward manner, mentioning details of the incident that could not have been merely concocted. Thus, their averments among others included the fact that accused was slapped by the victim in front of his friends which caused him extreme embarrassment, leading to a heated argument and escalating into the mauling of the victim. Matter-of-factly, the manner in which the witnesses for the state testified and their narration of events bear the hallmarks of candidness and sincerity.

And neither do we find material discrepancies or substantial inconsistencies in their testimonies which may engender serious doubt on their reliability and veracity. Except for witness Isidro Magpantay to whom bias is imputed by reason of his being the father of the victim who allegedly despised accused as his son-in-law, there appears to be no motive on the part of Abigail and Dr. Glorioso to testify falsely. The absence of evidence as to improper motives actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motives existed, and that their testimonies are worthy of full faith and credit. [20] There was no reason at all for Abigail and Dr. Glorioso to lie and incriminate the accused. More so with Abigail who was then only fifteen (15) years old when she took the witness stand. It has been held that the testimony of a minor of sound mind is likely to be more correct and truthful than that of an older person, so that once established that the former has fully understood the character and nature of an oath, his testimony should be accorded full credence. [21] What is more, the eyewitness account of Abigail conforms with the autopsy findings, making her testimony even more reliable and faithworthy.

The testimonies of the prosecution witnesses to which the lower court has given full faith lead to a fair and reasonable inference that the accused was indeed responsible for the death of the victim. Isidro Magpantay narrated that he witnessed the misunderstanding between his daughter and her husband who was then reeking with liquor, which the latter even admitted on cross-examination. Abigail Bando was an eyewitness to the altercation between the spouses which led to the fatal mauling of the victim. And Dr. Nida Glorioso, after examining the deceased and taking into consideration the result of the tests, concluded that the cause of death was "shock due to cerebral concussion secondary to a severe blow on the head," contrary to the submission of the accused that his wife had poisoned herself. Certainly, the circumstances proved constitute an unbroken chain leading to a logical conclusion that the accused, to the exclusion of others, perpetrated the crime.

In brief, as this Court has repeatedly ruled, the alibi and denial of the accused cannot prevail over the positive testimony of prosecution witnesses and their clear identification of him as the perpetrator of the crime. [22] Thus, against the strength of the evidence of the prosecution, the arguments of the defense have proved to be unavailing.

The submission of the accused that the trial court erred in lending credence to the testimony of the father of the deceased who has shown his dislike and bias against the former even before the death of Nora is unsustainable. Isidro Magpantay merely narrated that the last time he saw his daughter alive was in the afternoon before she died when she and her husband were quarreling. While he may have previously manifested his enmity towards the accused, Isidro only testified that he saw his daughter and the accused in a heated altercation, which per se is not incriminatory, and which the accused himself even admitted, downplaying it as a mere "tampuhan." It has long been settled that relationship of the prosecution witness to the victim does not necessarily categorize him as biased and interested and thus tarnish his testimony. [23] In fact, it is highly doubtful that Isidro would aid in the prosecution of the accused simply because he disliked the latter. For sure, he would like to send the real killer of his daughter to jail, and not just anyone whom he despised. Hence, there is no reason why Isidro's testimony should not be believed.

The contention of the accused that the deceased should have suffered more contusions, and not merely on the "left cheek including the lateral aspect of the eye," considering the numerous blows she supposedly received from him as narrated by witness Abigail, is ungrounded. We have repeatedly said that absence of external injuries does not rule out the possibility that a blow had in fact been administered by the offender. [24]

The proposition of counsel of the accused that the toxicological examination performed by Dr. Glorioso was "very limited," [25] and that her conclusions were merely based on her opinion and not on medical findings is likewise untenable. [26] In fact, we find this amusing coming as it does from counsel who has neither presented his qualifications nor cited any medical authority in forming such self-serving conclusions. We thus sustain the opinion of Dr. Glorioso who certainly appears to be more competent in the field of medicine than counsel who simply proffered speculations that have remained unsubstantiated.

Thus, even the assertion of the accused that his wife took sodium cyanide is very doubtful, not only because her toxicological examination yielded negative result for the presence of poison, but also because the pieces of broken bottle which supposedly contained the poison were also found negative for "volatile, non-volatile and metallic poisons." [27]

The defense, contending that "the prosecution should not have been allowed to spring a surprise," then seeks to nullify the account of rebuttal witness Abigail Bando that the accused mauled the victim, and binds the prosecution to its earlier statements that the rebuttal witness will testify only for the purpose of rebutting the alibi of the accused that he attended the concert of Randy Santiago.

We are not persuaded. The Court finds it difficult to believe that the defense was surprised by the testimony of witness Abigail considering that it was able to subject her to a grueling and rigorous cross-examination, ceaselessly trying to elicit contradictory statements from her. If indeed the defense was caught flat-footed, as it now makes it appear, then it could not have extensively cross-examined the 15-year old witness. Suffice it to state that what Abigail said she saw and where she was at the time of the incident are the natural and logical allegations to show that "the accused was not in the Randy Santiago show," [28] which is the essence of the testimony of the rebuttal witness, as stated by the prosecutor, to refute the denial of the accused.

The accused also takes to task the testimony of Abigail because of her delay in reporting the incident. She witnessed the mauling of the victim on 14 January 1989. Yet, she executed an affidavit only on 23 January 1990, or after more than one year. Abigail however explains that she was not aware that the victim had died as a result of the mauling and that a case was filed against the accused since after the mauling she left for Manila to continue her schooling. Hence, it was only sometime in November 1989 when she learned that Nora was dead, and only on 23 January 1990 that a case was filed against the accused. We thus accept the elucidation of Abigail. She has satisfactorily shown that she was indeed in Manila to continue her studies, and was not well-posted on developments in the province. It was only some ten (10) months later when she returned to San Pablo that she learned of Nora's death.

It has been repeatedly held that delay divulging the name of the perpetrator of a crime, if sufficiently explained, does not impair the credibility of the witness and his testimony nor destroy its probative value. [29] And, the failure of a witness to report at once to the police authorities the crime he had witnessed cannot be taken against him for it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case. [30] It has become judicial knowledge that prosecution witnesses are, more often than not, afraid to testify. This was manifested by the prosecutor in the instant case. Hence, in one case, [31] we said that fear of reprisal is a valid excuse for the momentary silence of prosecution witnesses.

Thus the testimony of defense witness Sherwin Isleta that he saw Nora at around eight o'clock in the evening

before she was found dead has lost its relevance as it has not shown that the accused was precluded from having mauled the victim and causing her eventual death. In fine, we uphold the pronouncement of the trial court that "[t]he defense of alibi raised by the accused showing that he was at the Canossa College in San Pablo City (watching the concert of singer Randy Santiago) with a friend, Nick Dalisay, who was not even presented in Court, at the time when his wife could have allegedly died even if true is still of no moment as his act (mauling) committed prior thereto is the one in issue." [32]

Consequently, we affirm the conclusion of the trial court that accused Manolo Villanueva is guilty of parricide with unintentional abortion, for a husband who with violence kills his pregnant wife, occasioning the death of the fetus, is guilty of parricide with unintentional abortion. [33]

Applying Art. 48 of The Revised Penal Code which in part provides that "[w]hen a single act constitutes two or more grave or less grave felonies x x x the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period," accused should be sentenced to death, the maximum period of the penalty for parricide which is the more serious crime. [34] However, in view of Sec. 19, par. (1), Art. III, of the 1987 Constitution, which proscribes the imposition of the death penalty, and the inapplicability of R.A. 7659 which restores the death penalty, considering that the act charged was committed prior to the effectivity of said statute, the imposable penalty is reclusion perpetua, which is the proper penalty as prescribed by The Revised Penal Code, and not life imprisonment as erroneously imposed by the trial court. Time and again this Court has said that reclusion perpetua is not the same as life imprisonment. The former entails imprisonment for at least thirty (30) years after which the convict becomes eligible for parole, and carries with it accessory penalties. The latter does not appear to have any definite extent or duration, and does not carry with it any accessory penalties. [35]

WHEREFORE, the decision appealed from finding accused MANOLO VILLANUEVA also known as "BOY" VILLANUEVA guilty beyond reasonable doubt of the complex crime of parricide with unintentional abortion is **AFFIRMED** with the **MODIFICATION** that the penalty of life imprisonment should instead be reclusion perpetua, and consistent with existing jurisprudence, the civil indemnity for the death of the victim and the award for moral damages should be as they are increased to P50,000.00 and P30,000.00, respectively, while the actual damages and costs of P3,000.00 remain.

SO ORDERED.

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

[1] TSN, 24 October 1989, pp. 15; 42.

[2] Id., pp. 10-12.

[3] Id., pp. 12-18; 33

[4] Id., 12 March 1990, pp. 139-142; 157-158.

[5] Id., 6 November 1989, p. 4.

[6] Id., pp. 19-20.

[7] Id., p. 16.

[8] Id., pp. 8-9.

[9] Chemistry Report No. C-175-89, Crime Laboratory Service, Camp Crame, Quezon City; Exh. "C;" Records,

p. 4.

[10] Necropsy Report prepared by Dr. Nida E. Glorioso; Exh. "A;" Records, p. 2.

[11] TSN, 8 January 1990, pp. 25-26.

[12] Id., p. 31.

[13] Id., pp. 33-35; 37-38.

[14] Id., pp. 38-41.

[15] Id., pp. 7-8.

[16] Id., pp. 1-10.

[17] Judge Stella Cabuco-Andres, presiding, who succeeded Judge Enrique B. Inting midway in the trial.

[18] Decision, p. 5.

[19] Id., pp. 5-6.

[20] People v. Blas, G.R. No. 97930, 27 May 1992, 209 SCRA 339

[21] Collado v. Intermediate Appellate Court, G.R. No. 72780, 13 February 1992, 206 SCRA 206, citing People v. Pedrosa, G.R. No. 56457, 27 January 1989, 169 SCRA 546.

[22] People v. Danico, G.R. No. 95554, 7 May 1992, 208 SCRA 472.

[23] People v. Buligon, G.R. No. 94338, 4 February 1992, 205 SCRA 766.

[24] See People v. Naguita, G.R. No. 76002, 22 April 1991, 208 SCRA 206.

[25] Appellant's Brief, p. 6.

[26] Ibid.

[27] Chemistry Report No. C-005-89; Exh. "D;" Records, p. 5.

[28] TSN, 8 January 1990, pp. 50-51.

[29] People v. Pascua, G.R. No. 100990, 27 February 1992, 206 SCRA 628; People v. Canciller, G.R. No. 97926, 4 March 1992, 206 SCRA 827; People v. Aguiluz, G.R. No. 91662, 11 March 1992, 207 SCRA 187.

[30] People v. Pugal, G.R. No. 90637, 29 October 1992, 215 SCRA 247.

[31] People v. Peran, G.R. No. 95259, 26 October 1992, 215 SCRA 152.

[32] Decision of the trial court, p. 5.

[33] People v. Desalisa, G.R. No. 95262, 4 January 1994, 229 SCRA 35.

[34] Art. 246, The Revised Penal Code.

[35] People v. Penillos, G.R. No. 65673, 30 January 1992, 205 SCRA 546.

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