

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENATO MANCAO, DIOSDADO BANQUESIO, AND JOSE MANCAO,
ACCUSED, JOSE MANCAO, ACCUSED-APPELLANT.**

G.R. No. 97495. October 30, 1992

Ponente: NOCON, J.

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NOCON, J.:

The last to be heard at the residence of the Sarabias were the voice of an eighty-three (83) year old woman screaming for help and two (2) gun shots. The police authorities found, upon reaching the scene of the crime, Rustico Sarabia, eighty-four (84) years old, dead near the toilet which was about two (2) meters away from their house with multiple hack wounds with his left arm completely severed. Candelaria Sarabia on the road about ten (10) meters away from their house with a hack wound on her neck and body, and Dionesio Sarabia, who was a fifty-one year old abnormal, also dead in their rest house, which was about one hundred (100) meters away from the main house with multiple hack wounds and stab wounds.

As a result of this heinous crime, seven (7) persons were tagged as suspects by the police and charged of the crime of multiple murder, but only Renato Mancao and Diosdado Banquesio were arraigned as the rest of the accused were at large. It was only later that appellant Jose Mancao was arrested, charged and pleaded not guilty upon arraignment.

The information filed with the Regional Trial Court, Branch 6, Mati, Davao Oriental, reads as follows:

“The undersigned accuses RENATO MANCAO and DIOSDADO BANQUESIO of the crime of MULTIPLE MURDER, defined and penalized under Article 248 in relation to Article 48 of the Revised Penal Code, committed as follows:

That on or about February 25, 1986, in the Municipality of Banaybanay, Province of Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of their superior strength, with intent to kill, armed with a samurai, with treachery and evident premeditation, conspiring, confederating together and mutually helping with JOSE MANCAO, SAMIO TAGUBAN, TUGANAY ENGUILAN and ALIAS ANGI, who are still at large, did then and there willfully, unlawfully and feloniously attack, assault and hack with said weapon RUSTICO SARABIA, CANDELARIA SARABIA and DIONESIO SARABIA, thereby inflicting upon the victims mortal wounds which caused their death.

CONTRARY TO LAW.”

After trial on the merits, Renato Mancao and Diosdado Banquesio were acquitted of the crime charged while Jose Mancao was convicted of the crime of multiple murder in a Decision rendered by the trial court, the dispositive portion of which reads:

“IN VIEW WHEREOF, accused Jose Mancao only is hereby pronounced guilty beyond reasonable doubt of the crime of Multiple Murder and attended by the aggravating circumstances of nighttime, disrespect on account of the age of the victims, and the crime was committed in the dwelling of the offended party.

Accordingly, accused Jose Mancao is hereby sentenced to reclusion perpetua and to indemnify the heirs of the victim in the sum of P90,000.00 (P30,000.00 each), and moral damages of P100,000.00, and to pay the costs.

With respect to accused Renato Mancao and Diosdado Banquesio, there being no evidentiary basis for finding of guilt beyond reasonable doubt, the said accused are hereby absolved from the criminal charge under inquiry, with costs de officio.

SO ORDERED.”

Hence, this appeal by Jose Mancao.

The facts of the case are as follows:

Felipe Estorba and Renato Mancao (one of the accused who was acquitted) were drinking “tuba” at the former's residence at Sitio Kalubihan, Banaybanay, Davao Oriental on the evening of February 25, 1986, at around 6 o'clock.

The two drank for about an hour when appellant Jose Mancao arrived and talked with Renato, his brother, Estorba who was just about a meter away from the Mancao brothers, overheard them talking about the liquidation of the octogenarian couple, Rustico and Candelaria.[1] Thereafter, appellant left behind his brother Renato.

A few moments later, Renato and Estorba heard two (2) gun shots and both left Estorba's house to buy cigarettes upon the request of Renato Mancao.

On their way to the store, they met three (3) persons, namely, Diosdado Banquesio, a certain “Angi” and herein accused-appellant, Jose Mancao along a fishpond dike owned by the Sarabias.

According to Estorba, Banquesio was wearing short pants, with no shirt but had a white band tied around his head. He had blood stains in most parts of his body and carried with him a samurai. “Angi” was also wearing short pants with no shirt and held a caliber .45 pistol while Jose Mancao was wearing a shirt and pants and held no weapon.[2]

Estorba further testifies that he heard Renato asked, “What now?” and appellant replied, “It is already okay”. Banquesio on the other hand, said, “All fixed” and “Angi” answered, “It is finished.”[3]

Estorba and Renato Mancao then went back to the former's house to finish the “tuba” they were drinking before they were rudely interrupted by gun shots.

All three victims died due to hypovolemic shock, or massive loss of blood, by reason of multiple hack and stab wounds.[4]

Appellant was a tuba gatherer of the victims who lived in a house near a fishpond,[5] some 80 meters away from the Sarabia's residence.[6]

He testified that in the evening of February 25, 1986 he saw seven (7) men passing his house going to the direction of the Sarabia's house. Two of the unidentified men were carrying long firearms. He heard the barking of dogs and a few moments later the shouting for help of Mrs. Sarabia followed by a gunburst. Out of fear, he just stayed in his house the whole night.[7]

The day after the massacre of the Sarabias, appellant Jose Mancao left his house at about 8 o'clock in the morning bringing along with him his family. They proceeded to the house of Jose's mother which was about a kilometer away. Jose Mancao later returned to their house at around 10 o'clock in the morning and noticed the presence of policemen.[8] Later in the afternoon, accused-appellant went back to his mother's house and there he was

approached by two persons who threatened and warned him to leave his house and if not, he would be killed just like the Sarabias.[9] Jose Mancao then proceeded to Malapatan, Glan, South Cotabato, the place of his wife.[10] Several months thereafter, he was arrested at Mabini, Magsaysay, Davao del Sur.

Accused-appellant now seeks to nullify the judgment of the trial court on the ground that the circumstantial evidence presented was insufficient to overcome accused-appellant's presumption of innocence.

The sole issue before Us is whether or not the prosecution has amply substantiated by circumstantial evidence and beyond reasonable doubt the participation of appellant in the shocking massacre of the Sarabias.

As there were no eyewitnesses to the crime, We are forced to base our verdict on circumstantial evidence.

Jurisprudence teaches us that for circumstantial evidence to be sufficient to support a conviction, all the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypotheses except that of guilt.[11]

“According to Moran, ‘the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion,’ that is, that the accused is guilty beyond reasonable doubt. In other words, the circumstances themselves, or a combination thereof, should point to overt acts of the accused that would logically point to the conclusion, and no other, that he is guilty of the crime charged.”[12]

In the case of *People vs. Pedrosa*,[13] the Court said:

“In determining the sufficiency of circumstantial evidence to support a conviction, each case is to be determined on its own peculiar circumstances. All the facts and circumstances are to be considered together as a whole. When so considered, they may be sufficient to support a conviction, although one or more of the facts taken separately would not be sufficient for this purpose.”[14]

We do not find the circumstantial evidence before Us sufficient to support conviction of the accused-appellant.

The prosecution advances the following circumstances to prove the guilt of accused-appellant:

First, Mrs. Olympia Ordoño, the daughter of the spouses Sarabia testified that her father told her that on February 13, 1986, they were robbed by a group of masked men. The men hogtied their brother, Dionesio Sarabia and ransacked the house. However, her father said that though they were masked, he could still recognize one of the men and identified him as Jose Mancao, their tuba gatherer. Her father further said that they wanted Jose Mancao out of the land but he refused to leave the same.[15]

Second, the behavior of the accused-appellant in bringing along his family to his mother's house is indicative of his guilt. It is unnatural for a neighbor and worker at that, of the Sarabias to flee from their house and to migrate to a place where nothing awaits them. The immediate flight of accused is strongly indicative of his consciousness of guilt.[16]

Third, appellant's silence as to what he allegedly saw and heard that fateful night and his failure to report the same is fatal to his credibility. His testimony therefore, becomes doubtful.

Lastly, a witness in the person of Felipe Estorba saw accused-appellant on the night when the Sarabias were massacred in the company of the two other accused one of whom had blood all over his body, carrying a samurai and the other carrying a .45 caliber pistol. However, accused-appellant was all dressed up and holding no weapon.

We do not agree that the foregoing circumstantial evidence is sufficient to support conviction of the accused-appellant.

The trial court gave weight to the testimony of Olympia Ordoño, one of the daughters of the deceased spouses, on what her father told her of his suspicion that appellant was one of those who robbed their house on February 13, 1986 and would want to dismiss him as their tuba gatherer inspite of objections from the defense. Said the court:

“It has been shown by the prosecution that the MOTIVE of the killing of the deceased was because the spouses, Rustico and Candelaria Sarabia, wanted to oust Jose Mancao from their fishpond as tuba gatherer for the reason that he was identified by same spouses as one of those who robbed them on February 13, 1986.”[17]

The testimony of Mrs. Ordoño is hearsay, hence, inadmissible in evidence. A witness can testify only to facts which he knows of his own knowledge.[18] The person who gave her the information is not in court to testify under oath, cannot be cross-examined by the adverse party, and cannot be met by the accused face-to-face. The weight of the witness' testimony depends, not upon her own veracity, but upon the veracity of the person who gave her the information without oath, which information cannot be tested in the crucible of cross-examination because he is not on the witness stand.[19]

The trial court based the guilt of the accused-appellant, among others, on its observation that Jose Mancao did not even lift a finger to help or ask assistance from their neighbors but instead stayed at home that fateful night inspite of his awareness that seven (7) persons passed his house going to the direction of the Sarabia's house at about 7:00 p.m. of February 25, 1986.

We find nothing unnatural in Jose Mancao's behavior taking into consideration the tense situation in the locality wherein armed groups, the NPA's, and the Bangsa Moro Army have been extorting money from the people not only in Banaybanay but even in the Capital town of Mati, Davao Oriental. Corporal Manuel de la Cruz, one of the policemen who first arrived at the scene of the crime, testified -

Q: You want to impress the Honorable Court that in the early morning of 6:00 o' clock, the Deputy Station Commander stay (sic) in the station?

A: Yes, I stayed in the Station.

Q: At what time did you report on February 26, 1986?

A: Actually, we are rendering Red Alert Day. We used to sleep in the Station during that time.

Q: So, the peace and order is critical?

A: Regarding insurgency.

Q: As a matter of fact, there had been armed men that were observed by your police station?

A: On February 26, 1989, yes, Sir.

Q: And that is the reason why you were on red alert?

A: Yes, Sir.[20]

Naturally, in cases of deaths like these, no one would dare to go out and report such fact to the police authorities or barangay officials especially in the evening. Where a killing has taken place in a certain area, it is but natural for those living therein to leave and seek residence somewhere given the prevailing peace and order situation. Flight must not always be attributed to one's consciousness of guilt. In the case at bar, the accused-appellant did not leave immediately but waited until morning and even went back that very same morning. He left because he was threatened and moreover, his neighbors had also left.[21] Had he been the perpetrator of the crime, he could have left that very evening to insure non-apprehension and never to go back to the place where the crime was committed. Admittedly, there were other suspects in this case but they are still at large.

The testimony of Felipe Estorba is not clear and convincing and not consistent with the hypothesis that the guilt of the accused-appellant is beyond reasonable doubt. In fact, there is nothing in his testimony pointing to Jose Mancao as the assailant. On the contrary, his testimony reveals that Jose Mancao was all dressed up and held no weapon.

Thus, the conviction of appellant by the lower court is predicated on the prosecution's claim that appellant was heard conversing with his brother about a plan to liquidate the victims; that he was seen in the company of two persons, one carrying a samurai and all bloodied up while the other was carrying a gun; that as told by one of the victims to his daughter before the incident in question, he suspected appellant as one of the persons who robbed his house on February 13, 1986, although they were masked; and that the next day, he bundled up his family and brought them to stay temporarily in the house of his mother.

Nobody saw appellant hack and kill the victims in this case. The testimonies of the prosecution witnesses are all hearsay. While flight may indicate guilt, the assumption is not always true, taken in the light of the environmental circumstances of this case. It could be that appellant's first impulse was to flee, frightened by the killing of the Sarabias, impelled by the instinct of self-preservation especially so when his immediate neighbors also fled.

It is difficult to ignore the trial court's acquittal of Diosdado Banquesio whom Felipe Estorba positively identified as one of the three men he saw on the night of the massacre all bloodied up and holding a samurai.

If the trial court saw fit to acquit Diosdado Banguesio who was seen holding a samurai and whose body was splattered with blood on the night of the killing of the Sarabias, with more reason should appellant be acquitted on the flimsy evidence of the prosecution.

As repeatedly held by this court:

“x x x a judgment of conviction must be predicated on the strength of the evidence for the prosecution and not on the weakness of the evidence for the defense.”[22]

The prosecution miserably failed to establish the guilt of the accused-appellant beyond reasonable doubt. There is no unbroken chain which leads to one fair and reasonable conclusion pointing to the appellant to the exclusion of all others as the author of the crime. If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.[23] Every circumstance favoring accused's innocence must be taken into account. Proof against him must survive the test of reason, and the strongest suspicion must not be permitted to sway judgment.[24] As Sir William Blackstone said, “It is better that ten guilty persons escape than one innocent suffer.”

It is sad to know that the true criminals are still out there scot-free but We cannot convict an innocent man. Our only consolation is, to borrow the words of William Shakespeare, “Truth will come to light; and murder cannot be hid long.”

WHEREFORE, the guilt of the accused-appellant not having been proved beyond reasonable doubt, the appealed decision is hereby REVERSED and SET ASIDE and accused-appellant Jose Mancao is hereby ACQUITTED.

SO ORDERED.

Feliciano, Regalado, and Campos, Jr., JJ., concur.

Narvasa, C.J., (Chairman), on official leave.

- [1] T.S.N., August 4, 1987, pp. 12-13.
- [2] Id., at pp. 21-23.
- [3] Id., at pp. 25-27.
- [4] T.S.N., December 8, 1987, pp. 28-30; Exhibits "B", "C" and "D".
- [5] T.S.N., April 17, 1990, p. 3.
- [6] Id., at p. 17.
- [7] Id., at pp. 4-5.
- [8] Id., at pp. 5-6.
- [9] Id., at p. 7.
- [10] Id., at p. 9.
- [11] No. L-77968, *People vs. Maravilla*, 167 SCRA 645, (1988).
- [12] *Francisco, Evidence, Part II, Vol VII*, (1991 Ed.) p. 608.
- [13] G.R. No. 56457, 169 SCRA 545 (1989).
- [14] Ibid., at p. 552, citing *People vs. Nabaluna*, No. L-60087, 142 SCRA 446, (1986).
- [15] T.S.N., December 15, 1988, pp. 8-9.
- [16] G.R. Nos. 89370-72. *People vs. Magdadaro*, 197 SCRA 151, (1991).
- [17] Decision, p. 10.
- [18] Section 30, Rule 130, Revised Rules of Court.
- [19] *Moran, Evidence, Part I*, p. 281.
- [20] T.S.N., September 14, 1988, p. 21.
- [21] T.S.N., April 17, 1990, pp. 7-89.
- [22] G.R. Nos. 90191--96, *People vs. Furuganan*, 193 SCRA 471, (1991).
- [23] No. L-70998, *People vs. Ale*, 145 SCRA 50, (1986).
- [24] No. L-21325, *People vs. Dramayo*, 42 SCRA 59, (1971).

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