

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON FLORES AND RENATO MACABIOG, ACCUSED-APPELLANTS.

G.R. No. 98069. January 27, 1993

Ponente: MELO, J.

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MELO, J.:

Ramon Flores and Renato Macabio were charged with the crime of Murder in an information which reads:

"That on or about 6:00 to 7:00 o'clock in the evening of October 15, 1979, at Maglaoi Centro, Currimao, Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously, and with intent to kill, attack and shoot with the use of a firearm one CAMILO MAMUYAC, inflicting upon him multiple gunshot wounds, and as a result thereof, the said CAMILO MAMUYAC died instantaneously.

CONTRARY TO LAW, with the aggravating circumstance of night time.

As a consequence of the death of CAMILO MAMUYAC, his legitimate heirs are entitled to P12,000.00; P20,000.00 as moral damages for mental anguish, moral shock and wounded feelings; actual damages in the amount of P10,000.00 and P10,000.00 for exemplary damages." (p. 1, Original Record)

Both accused pleaded not guilty upon arraignment and trial thereafter ensued, with the prosecution presenting six witnesses, namely, Dr. Florencio Carpio, Luciana M. de Lara, Evangeline Mamuyac, Ernesto Mamuyac, Manuela Mamuyac and Agustina Macabio. The defense, on the other hand, presented only Soledad Flores aside from the two accused.

On September 5, 1989, the trial court laid down its verdict in this wise:

"WHEREFORE, in view of the foregoing, this Court finds accused Ramon Flores guilty beyond reasonable doubt of the crime of Murder, penalized under Article 248 of the Revised Penal Code with the qualifying circumstance of treachery, and in view of the abolition of the death penalty, under the New Constitution, this Court hereby sentences the accused RAMON FLORES with a penalty of RECLUSION TEMPORAL in its maximum period of SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY to TWENTY (20) YEARS, and to indemnify the heirs of the victim in the amount of THIRTY THOUSAND PESOS (P30,000.00).

Accused RENATO MACABIOG is hereby ACQUITTED of the crime charged for insufficiency of evidence against him.

SO ORDERED." (pp. 245-246, Original Record).

Aggrieved, Flores appealed to the Court of Appeals which, however, came up with the following findings (CA-G.R. CR No. 08417, April 16, 1991, Herrera, M., Benipayo, Garcia (P), JJ.), thus:

"On the evening of October 15, 1979, between 6:00 to 7:00 o'clock, while about to retire for the night

following the birthday party of their 3-year old child, the spouses Camilo Mamuyac, Jr. and Evangeline Aglipay-Mamuyac were in the kitchen of their house at Barangay Maglaoi Centro, Curimao, Ilocos Norte. Camilo was then answering the call of nature while his wife Evangeline who was about 22 centimeters behind him was brushing her teeth. Both were facing southeast towards their "batalan" which was made of bamboo slits.

Suddenly, there was a gunshot. Evangeline saw a flare or "gim-millayab" barely 64 centimeters in front and she heard her husband utter: "I am shot". Evangeline peeped down through the gaps of the nailed bamboo slits of their "batalan" and there she saw face to face and eye to eye the herein appellant Ramon Flores, who was about 55 centimeters away and looking upwards at her. She recognized Flores clearly because they were neighbors and had known him since childhood. The place was illuminated by electric bulbs in the sala and in the kitchen.

Scared, Evangeline scampered for safety and hid herself behind a big wooden trunk in their sala. Her husband who was moaning in pain laid down on the bamboo flooring of their kitchen. From where she was, she observed that her husband was no longer moving and she uttered and cried "natayen" or "he is dead". Subsequently, she heard the sound of footsteps and movements or "carasacas" under their house. A neighbor, Mrs. Eugenia Valdez, who must have heard the gunshot, came and asked Evangeline what happened. Evangeline told Mrs. Valdez to "please go around because they shot my husband". Whereupon, Mrs. Valdez informed the neighbors who, together with the relatives and the local authorities, including the mayor of Curimao, arrived.

That same night, the police, thru the initiative of the victim's brother Ernesto Mamuyac, rounded up several suspects one of whom was the herein appellant whose left and right hands were paraffin casted. Subsequently subjected to paraffin test, appellant's left and right hands were found to be positive of nitrates (Exh. "G").

Meanwhile, in the morning of October 16, 1979, the Municipal Health Officer of Paoay, Ilocos Norte, Dr. Florentino Carpio, performed an autopsy on the cadaver of Camilo Mamuyac, Jr. The Autopsy Report prepared by Dr. Carpio (Exh. "A") contains the following findings:

‘1. Gun shot wounds point of entrance:

1. 6 mm in diameter, 2 inches away and superiorly from the navel, directed forward inside the abdomen, left side.
2. 6 mm in diameter, superiorly to gun shot wound No. 1, along mid clavicular line, right side, directed forward inside the abdomen.
3. 6 mm diameter, superiorly to gun shot wound No. 2, along midsternal line, directed forward and inside the abdomen.
4. 6 mm diameter, directed forward inside the abdomen, 1 inch above the gun shot wound No. 3, slightly on the left.
5. 6 mm diameter, 1-1/2 inch above gun shot wound No. 4 and slightly to the right, directed forward and inside the abdomen.
6. 6 mm diameter, directed forward inside the abdomen, over the epigastric line, right side along mid clavicular line.
7. 6 mm diameter, directed forward inside the abdomen, over the epigastric line, left side, along midclavicular line.
8. 6 mm diameter, directed forward, inside the abdomen, over the epigastric line, adjacent and superiorly to gun shot wound No. 7.

9. 6 mm diameter, directed forward inside the abdomen, slightly along the mid sternal line, right side, 3 inches above gun shot wound No. 8.

2. Gun powder burn, about the size of a 50 centavo coin, 3 inches below right breast.

Internal Findings:

Upon opening the abdomen, the following are the findings:

1. About 1,900 cc of blood and clots within the abdominal cavity.
2. Perforations of the stomach, 2 points.
3. Perforations of the large intestine, or transverse colon, 2 points and also the mesenteries, perforations of the small intestines, 3 points.
4. Liver-laceration of the liver, 1 point, 3 inches long, deep, directed backward.
5. Diaphragm-perforations, 2 points, directed backwards.

Recovered from the posterior wall of the body, embedded over the intercostal muscles and subcutaneous tissues at different points are 5 pieces of lead, rounded, practically almost the same sizes except that they are irregular in shapes and there is one gun shot wound of exit at the right side, mid scapular line, over the level of the last rib. Edges, everted and rough.

Cause of death - shock due to multiple gun shot wounds in the body.'

Somehow, the Station Commander of Curimao, Ilocos Norte, was able to take possession of the suspected firearm, a shotgun, 'Winchester' model 37 stool built model Cal. 12 with serial number 12106, which he submitted to the NBI for ballistic examination. The NBI Chemistry Report dated October 29, 1979 (Exh. "E") states that 'the specimen shotgun under microscopic and chemical examinations made on the swabbings showed the presence of soot, black and brown particles and nitrates'. The report also says that when the gun was test-fired, it was found to have been recently fired.

One (1) month after the shooting, or on November 15, 1979, Evangeline Mamuyac broke her silence and executed a sworn statement wherein she identified herein accused Ramon Flores as the one who shot her husband in the evening of October 15, 1979." (pp. 4-7, Rollo)

Additionally, witness Ernesto Mamuyac recounted a row between his brother Camilo and appellant Flores which occurred on October 1, 1979 or about two weeks prior to the incident. On that occasion, appellant Flores uttered the threatening remark, "I will never stop until I kill you" (TSN, August 10, 1982, pp. 138-142). Another witness, Manuela Mamuyac, simply informed the court of the expenses she incurred during the wake and burial of her son (TSN, November 25, 1986, pp. 10-12).

On the other hand, the defense, interposing denial and alibi, presented only one witness aside from the two accused.

Soledad Flores, mother of accused Raman Flores, testified that on October 15, 1979, between 6 and 7 o'clock in the evening, she and her family had just finished eating supper and Ramon, herein appellant, engaged his brother and sister in a conversation for about three hours. At about 9 o'clock that evening, her children went to bed and they all slept in one room. The following morning at around 2 o'clock, two policemen came and asked for her son Ramon. Subsequently, she learned that he was suspected of killing Camilo Mamuyac, Jr., who was shot to death that night. Soledad insists that her son could not have killed the victim as he was in their house at the time of the incident (TSN, September 7, 1988, pp. 3-6).

Appellant himself, flatly denied the accusation against him. On the witness stand, he affirmed his mother's statement that he was conversing with his brother and sister between 6 and 7 o'clock that evening and fifteen minutes later, he proceeded to his room to retire for the night. He was still sleeping when two policemen came to fetch him. Appellant further explained that he was found positive for nitrates because he sprayed mango trees with potassium nitrates that afternoon (TSN, October 19, 1988, p. 24-32).

Upon the above circumstances, the appellate court, even as it found appellant guilty would have the penalty increased to reclusion perpetua and to increase as well the civil indemnity to be paid. Withal, the appellate court citing Section 12 of Rule 124, to wit:

"Whenever in any criminal case submitted to a division the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal."

certified the case to this Court for final determination.

In his brief, appellant asserts that the testimony of Evangeline Mamuyac, the prosecution's eyewitness, should have been discredited for being highly irregular and improbable. This argument is anchored on the following premises: a) it was impossible for witness Mamuyac to have seen the flare of gunfire as she was directly behind her husband when the latter was shot; b) her act of peeping through the bamboo railing immediately after the shooting appears to be a very unnatural reaction to a shocking incident; c) the fact that she deliberately withheld the identity of the gunwielder sufficiently casts doubt on her account, and finally, d) her testimony was uncorroborated and too detailed to be considered believable and trustworthy.

Appellant likewise faults the trial court for dwelling on the inconsistencies of the defense witnesses, claiming that these were but minor and inconsequential and thus, should not have been regarded at all.

We have carefully reviewed the record and We find that the above contentions are baseless and utterly devoid of merit.

First, the Solicitor General correctly observed:

"The victim is, as his pictures show (Exhibits J and J-1), not so bulky, stout or big to totally cover the sight and frontal view of the widow, the prosecution's eyewitness. In fact, there is no evidence to show that her view of the ground from the "batalan" where the flare of the gunfire was seen was obstructed. As the spouses, Camilo and Evangeline, were facing the same direction towards the "batalan", they must have seen the flare or blaze of the gunfire. About 64 centimeters away, they were so close to the flare (TSN, March 24, 1982, p. 68), which could easily been seen because it was nighttime." (p. 157, Rollo)

Likewise, it is noted that the gun used was a 12 gauge shotgun which gives a big blast and which fact pumped no less than nine missiles into the body of the hapless victim.

Second, it is well-settled that there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience (People vs. Raptus, 198 SCRA 425 [1991]; People vs. Lagota, 194 SCRA 92 [1991]). Verily, it is even preposterous to say that any one could exactly determine how a person will or should react to a given situation. Thus, it may not be readily concluded that witness Mamuyac's act of peeping through the railing after the shot, is in any manner opposed to the truth, human nature, and natural course of things. Surely, appellant would not have the witness ignore the first call of self-preservation and expose herself to the angry blast of a shotgun.

Third, it has also been repeatedly pronounced that the failure to reveal at once the identity of the perpetrator of a

felony does not affect, much less impair, the credibility of witnesses (People vs. De Guzman, 194 SCRA 618 [1991]; People vs. Valdez, 159 SCRA 152 [1991], more so if such delay has been adequately explained (People vs. Cabanit, 139 SCRA 94 [1991]; People vs. Mandapat, 196 SCRA 157 [1991]). The appellate court, on this point, had this to say: "Appellant finds it strange that Evangeline Mamuyac revealed her account of the shooting incident only one month after the death of her husband. We find nothing unusual in Evangeline's conduct. As explained by her, she did not immediately disclose the identity of the appellant because she wanted to avoid trouble, at least during the wake and until the burial of her husband, as her brothers-in-law and their close relatives might avenge her husband's death. Indeed, We need not add more to the following observations of the lower court:

‘The Court believes that the giving of the sworn statement by the widow, Evangeline Mamuyac after the 30-day death anniversary of the slain victim still come within the meaning of 'reasonable time' taking into account the circumstances surrounding it, particularly, the routines of the bereaved family in attending the wake, the preparation of the family interment and the common death observance rituals coupled with the fact that Evangeline's brother-in-law Ernesto Mamuyac has during the wake, initiated a move to discover the assailant by having eight persons arrested by the police authorities and from which act of said Ernesto Mamuyac, and who at the same time was at the height of fury, can be inferred that once Ernesto Mamuyac might without wasting a time avenge the death of his slain brother."

(pp. 14-15, Rollo)

The reason advanced by witness Mamuyac has in fact been explicitly recognized by this Court when it declared in recent cases that although there is a natural tendency to seek the ends of justice for the treacherous killing of a dearly departed, mourning and rites for the dead take priority as dictated by our culture (People vs. Nebreja, 203 SCRA 45 [1991]; People vs. Sabellano, 198 SCRA 196 [1991]).

Fourth, the fact that the widow Mamuyac delivered a detailed and uncorroborated testimony does not destroy her credibility as a witness. On the contrary, her vivid description of the incident strongly inspires belief. Its being uncorroborated will neither detract from its probative value because the testimony of a single eyewitness, if found credible and trustworthy as in the instant case, is sufficient to support a finding of guilt beyond reasonable doubt (People vs. Donato, 207 SCRA 125 [1992]; People vs. Catubig, 195 SCRA 505 [1991]; People vs. Mision, 194 SCRA 432 [1991]).

Lastly, appellant's testimony contradicted that of his sole witness - his very own mother at that, on several points. As stated earlier, his mother testified that appellant conversed with his brother and sister for three hours after which he slept with them in one room at about 9:00 in the evening. In contrast, accused averred that the conversation lasted for about fifteen minutes only and then he went to bed in his own room and slept before 7:00 that night. There were no explanations nor was there any attempt to reconcile these incongruities, which are indeed material and vital to the cause of appellant, hence, the trial court reasonably disregarded their testimony.

Most importantly, appellant was positively identified by the prosecution's eyewitness. Thus, in order for his defense of alibi to prosper, it was incumbent upon him to establish not only that he was present at some other place at the time of the commission of the crime but that it was also physically impossible for him to have been at the place where the crime was committed (People vs. Mandapat, 196 SCRA 157 [1991]). No less than the clearest proof is required to establish alibi (People vs. Peralta, 193 SCRA 9 [1991]). The record, however, is bereft of such proof. Instead, We find two more incriminating facts - appellant was found positive for nitrates and motive to commit the crime was amply substantiated.

All told, We declare that the prosecution has fully discharged its duty of proving the guilt of the accused beyond reasonable doubt. As found by the Court of Appeals, the penalty to be imposed on appellant should be reclusion

perpetua in conformity with *People vs. Munoz* (170 SCRA 107 [1989]):

“... we hereby reverse the current doctrine providing for three new periods for the penalty for murder as reduced by the Constitution. Instead, we return to our original interpretation and hold that Article III, Section 19(1) does not change the periods of the penalty prescribed by Article 248 of the Revised Penal Code except only insofar as it prohibits the imposition of the death penalty and reduces it to reclusion perpetua. The range of the medium and minimum penalties remains unchanged.” (at p. 124)

and the civil indemnity should also be increased to P50,000.00 (*People vs. Peralta*, 193 SCRA 9 [1991]).

WHEREFORE, the judgment of the trial court, except as herein modified, is hereby **AFFIRMED**.
SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

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