

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME LAURORA, ACCUSED, TEODORO “RICO” RAQUION, ACCUSED-APPELLANT.

G.R. No. 98440. July 03, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision* dated March 11, 1991 of the Regional Trial Court of Legazpi City, Branch 3, the dispositive portion of which reads:

"WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS, this Court finds the accused Teodorico 'Rico' Raquion guilty beyond reasonable doubt of the crime of MURDER and imposes upon him the penalty of Reclusion Perpetua with the consequential indemnification of the heirs of the deceased Ricardo Calda, Jr. in the sum of Thirty Thousand Pesos (P30,000.00).

"It appearing that the accused Jaime Laurora is still at large, let the corresponding alias order of arrest be issued.

"SO ORDERED." (p. 27, Rollo)

The information dated March 25, 1987 filed against the accused in Criminal Case No. 3872 alleges:

"UNDERSIGNED Assistant Provincial Fiscal accuses JAIME LAURORA and TEODORICO 'RICO' RAQUION of the crime of MURDER, committed as follows:

'That on or about September 20, 1986 about 12:00 o'clock midnight, at Pingan, Mancao, Rapu--Rapu, Albay, Philippines, within the jurisdiction of the Honorable Court, the abovenamed accused, with intent to kill, treachery, and conspiring together for a common purpose, did then and there willfully, unlawfully and feloniously attack, hack and hit with bolos, deadly weapons, RICARDO CALDA, inflicting fatal injury on the right side of the neck involving the cervical vertebrae and cord, which resulted to and directly caused the death of said RICARDO CALDA.'

"CONTRARY TO LAW." (p. 19, Rollo)

The prosecution presented five (5) witnesses who corroborated one another in the following summarized evidence upon which the court a quo based its finding of guilt beyond reasonable doubt:

On or about midnight of September 20, 1986, the deceased Ricardo Calda and his uncle Quintin Vargas attended a birthday dance party in Sitio Pingan, Mancao, Rapu-Rapu, Albay. Around midnight, the duo went out of the dance hall to proceed to a nearby house for the preparation of snacks. Ricardo Calda walked ahead by about four (4) meters from Quintin Vargas. All of a sudden two (2) men were seen walking towards them, consecutively hacked Ricardo Calda with a bolo called "ginunting" which each man carried. The first hack of the first man named Jaime Laurora, Ricardo Calda was able to avoid by instinctively ducking but the next hack of the second

man named Teodorico "Rico" Raquion, he was not able to avoid as it was executed a split second just after the first hack. Ricardo Calda sustained a big wound at the back portion of his neck which almost severed from his body which wound caused instant death. Immediately after the falling to the ground of the deceased, the two killers fled towards the direction of the seashore.

The defense presented alibi as its exculpatory factor. Accused-appellant Teodorico Raquion said that he was at the dance hall during the time when there were two (2) persons which he together with two (2) other witnesses saw at around midnight, chasing each other, one named later on to be Ricardo Calda who was armed with an arrow and the other one, identified as one Celestino Springael, armed with a bolo or "ginunting". Nobody on the side of the defense saw what happened to the alleged two (2) persons chasing each other but since both died later, the defense wanted to make it appear thru presumption that the two (2) Ricardo Calda and Celestino Springael killed each other. When one witness was shown photo of the victim with another person, it was the other person and not the victim who was pointed to. There was also a testimony of the father of Celestino Springael that his son who died after some days later, in the Albay Provincial Hospital of the wound caused by the arrow imbedded in his left armpit informed him that he was pierced by the deceased Ricardo Calda who had already been dead some three (3) days thence.

For the rebuttal evidence, the prosecution recalled the local Barangay Captain Hospicio Barbasina who categorically stated that the deceased Ricardo Calda was already dead at around 12 midnight of September 20, 1986 just beside the dance hall, while the next day, he investigated the incident involving Celestino Springael in a place quite far from the dance hall and this Celestino Springael narrated to said Barangay Captain, in the presence of the Barangay Secretary that he was attacked the previous night by several men whom he did not know, while towing his banca at the deeper part of the seashore. Then he was hit by an arrow and left hanging at the side of his banca until he was drawn ashore the next morning when it was already high tide.

Accused-Appellant Teodorico Raquion thru the Public Assistance Office of the Dept. of Justice interposed the present appeal with six (6) assignment of errors alleging that the court a quo erred in (1) lending credence to the testimonies of prosecution witnesses Quintin Vargas and Alberto Bercasio in the face of marked inconsistencies and improbabilities defying all ordinary human conduct, behaviour and experience; and in treating said inconsistencies as merely minor ones; (2) adjudging as 'more credible' the testimony of barangay captain Hospicio Barbasina over that of Mauro Springael's, despite its apparent falsity, infirmity and improbability; and in anchoring such finding on a mere presumption; (3) in ruling against the admissibility of Celestino Springael's testimony apropos of the cause of the victim's death on the ground that it is hearsay evidence, being in the nature of a dying declaration of a third person; (4) positing that the accused-appellant interposed the flimsy defense of alibi; (5) finding the accused-appellant guilty of the crime charged despite want of proof beyond reasonable doubt pinning responsibility on him; and (6) qualifying the crime to murder when the circumstances qualifying it as such were not established by proof beyond reasonable doubt.

A diligent and concentrated study of the case reveals that the adjectives used in attacking the decision through the assignment of errors are grossly exaggerated and full of misrepresentations. Obviously, the resolution of the same boils down to proving the credibility of the testimonies of the witnesses of the prosecution which is very easy to prove. But at this point, we are once more forced to reiterate the well-settled doctrine in our jurisdiction that the findings of the trial court on the credibility of the witnesses are generally accorded great weight and respect by the appellate courts except when the trial court has overlooked some very material and substantial facts that might alter the questioned judgment (*Pio v. Realon*, 99 SCRA 422).

Corollarily, the Court has also consistently ruled that credibility is a matter that peculiarly falls within the province of the trial judge who had first-hand opportunity to watch and observe the demeanor and behavior of

witnesses, both for the prosecution and the defense, at the time of their testimony (Ibid.).

We find no cogent reason in the case at bar to deviate from the aforestated rulings as therein court findings are well-supported by evidence adduced during the trial. Neither does it appear that the witnesses had any untoward motives or reasons to falsely testify against the accused-appellant.

The defense put up by accused-appellant Teodorico Raquion consisting of the very weak alibi that he merely stayed and danced inside the dance hall when the crime happened some four (4) or five (5) meters away from his alleged body location can not prevail over the very positive identification of him by two (2) eye-witnesses Quintin Vargas and Alberto Bercasio, thus:

Re: Testimony of Quintin Vargas:

FISCAL TOLOSA:

Q. What was Jaime Laurora doing at the time when Teodorico Raquion hacked Ricardo Calda?

A. He also hacked Ricardo Calda but he was not able to hit him.

Q. By the way, who of these two accused first hacked the victim, Ricardo Calda?

A. The first who hacked Ricardo Calda was Jaime Laurora.

Q. But Ricardo was not hit?

A. He was not hit.

Q. And then after Ricardo Calda was not hit, who again hacked Calda?

A. Teodorico Raquion, sir.

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Q. What happened to Ricardo Calda after Rico Raquion hacked Calda?

A. Suddenly he fell on the ground.

Q. Why did Ricardo Calda fall on the ground?

A. Because of the wound that was inflicted on his neck. (Witness points to the back portion of his neck).

Q. Where was Teodorico Raquion in relation to Ricardo Calda, when Raquion hacked Calda?

A. He was at the back of the victim.

Q. Now, after Ricardo Calda was hit, after being hacked by Raquion, what transpired next?

A. The two suddenly left. (TSN, pp. 7-8)

and Re: Testimony of Alberto Bercasio:

Q. And what transpired next?

A. While answering the call of nature, I turned my head and I saw two persons going to the direction of the dance hall.

Q. And what did you notice of these persons when you saw them?

A. While these two persons whom I saw were going to the direction of the dance hall, they also met two

persons going to the opposite direction and then there and then I saw that somebody was hacked.

Q. Now, what did you do after you noticed that somebody was hacked?

A. When I saw somebody was hacked, I immediately ran for cover because there was a big stone there. I hid my self there because I was shocked.

FISCAL TOLOSA:

Q. Those persons you said passed behind you when you were answering the call of nature, did you recognize those persons?

A. I recognized them after passing me because there was light.

Q. Why, what was the light that evening within your area?

A. Flourescent.

Q. How was that flourescent lamp placed in that vicinity?

A. The Flourescent was installed at the edge of the house of Bibon.

Q. Did you notice what these two persons were carrying at the time they were passing by you?

A. Yes, sir.

Q. What were they carrying?

A. It is a bolo.

Q. You said a while ago that you recognized these persons carrying bolos, do you know their names?

A. No, sir.

Q. Why do you say that you recognized these persons?

A. I know them because they passed the place where it was lighted. If I could see these persons, I could recognize them.

Q. Now, please look around in court if you could still recognize these persons you saw with bolos when you were answering the call of nature?

A. Yes, he is around.

Q. Please point to this person whom you recognize as one of those persons carrying bolos?

(Witness pointing to a man wearing multi-colored T-shirt and whom when asked answered by the name of Teodorico Raquion). (TSN. pp. 88-91)

In a string of cases, alibi is considered an inherently weak defense and in this case unavailing, as the accused-appellants have already been positively identified by eye-witnesses to be the real perpetrators of the crime. Besides, for alibi to prosper, it is not enough that accused-appellants are able to show that they were somewhere else when the crime was committed but they must likewise demonstrate that it was physically impossible for them to have been at the scene of the crime, which requisites are all absent here (*Peo v. Mandapat* 196 SCRA 157).

The characteristics of the assigned errors alleged by the counsel of the defense boomeranged at them. The testimonies of the witnesses are the ones that are "marked by improbabilities defying all ordinary human conduct,

behaviour and experience". Take the example of accused-appellants Teodorico Raquion together with Domingo Bradicino. Both stated that they saw two (2) persons whom they claim later on to turn out to be Celestino Springael and the victim Ricardo Calda chasing each other at midnight of September 20, 1986, around the dancing hall, claiming that they did not know what happened afterwards to the two chasers, and that they never bothered to know. This is incredible and beyond ordinary human conduct. In a small sitio where everybody (almost) knows everyone else and where every incident however minor is considered a piece of news and/or gossip, this momentous and big event between the two (2) supposed barrio mates will never be kept a secret to anybody. If the two (2) supposed protagonists really chased each other with a bolo and a deadly arrow, something explosive is really bound to happen. Further, if the two (2) witnesses, the accused-appellant and Domingo Bradicino did not bother to know what happened, then they would have known what happened anyway considering how news and events spread (like fire) in sitios or barrios like Pingan, Mancao, at Rapu-Rapu, Albay. The truth of the matter is that Teodorico Raquion with his companion (at-large) Jaime Laurora conspired to murder the victim Ricardo Calda whom they knew will be attending the dancing party, due to an old grudge related to a past drinking spree incident (TSN, p. 48).

Another event defying ordinary human nature which is very disadvantageous to the defense is the testimony of the father of Celestino Springael, a victim of another violent incident. It is inconceivable that the father of the deceased Celestino Springael, who died some two (2) or three (3) days after the murder involved in this instant case, never knew that his very own son Celestino was already dying. In small places like the sitios and barrios involved in this murder charge, the father and the mother, if still alive are ordinarily the first to be notified of what grave accidents or life-threatening incidents happen to their children. It is therefore unbelievable that witness for the defense Mauro Springael, came to the Albay Provincial Hospital not to see nor visit his dying son, but only to visit a nephew. And it was in this casual visit of a wounded nephew which he first came to know of, much, much ahead of the news about his own son's hospitalization, that he came to hear of the report that there was a person in the emergency room dying of a wound caused by an arrow imbedded near his left armpit. It is beyond human common sense that this piece of news made the same gossiped about.

Flight is an indicium of guilt. Accused-appellant Teodorico Raquion was caught in Baliwag, Bulacan but as to accused-appellant Jaime Laurora, the authorities were not as lucky. If the accused-appellants were clean and never took part in the murder of the deceased, then they would have faced bravely and with integrity the law and their accusers right there in their barrio. Instead they hid elsewhere.

The crime committed is murder since the killing was performed with the qualifying circumstance of treachery, the deceased Ricardo Calda having been hacked to death by the accused in a very sudden and surprising manner, without giving him any chance to defend himself.

WHEREFORE, the decision appealed from is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

* Penned by Judge Wenceslao R. Villanueva, Jr.

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