

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICOLITO RUGAY ALIAS JUN, ACCUSED-APPELLANT, ARVIL VILLALON, ACCUSED.

G.R. Nos. 113026-27. July 02, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Charged before the Regional Trial Court of Palawan and Puerto Princesa with the killing of Ariel Mendoza were Ricolito Rugay and Arvil Villalon in an information which reads as follows:

That on or about the 28th day of August, 1991, in the evening, at Junction I, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused with intent to kill, with treachery and evident premeditation conspiring and confederating together and mutually helping one another and while armed with knife and gun, did then and there wilfully, unlawfully and feloniously assault, attack, stab and shot therewith one Ariel Mendoza, thereby inflicting upon him mortal wounds, which were the direct and immediate cause of his death.[1]

In connection with said killing, accused Ricolito Rugay was charged with violating the provisions of Presidential Decree No. 1866, thus:

That on or about the 28th day of August, 1991 in the evening, at Junction I, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control one (1) handgun, without first securing the necessary permit and/or license from the proper authorities to possess the same which is in violation of Pres. Decree No. 1866.[2]

Upon arraignment on October 11, 1991, both accused entered a plea of “not guilty” to the murder charge. Accused Ricolito Rugay, likewise, pleaded not guilty to the charge of illegal possession of firearms. Joint trial commenced thereafter.

The prosecution’s version, as narrated by its principal witness, Jesus Madrid, is as follows:

A detainee at the City Jail of Puerto Princesa City, Madrid claimed that he was employed by a certain M/Sgt. Guba as an “asset” supplying information concerning other drug users, that is, until his arrest and detention for possession of marijuana on August 15, 1991.

On August 28, 1991, Guba allegedly negotiated with the city warden for Madrid’s temporary release and engaged the latter’s services for surveillance purposes.

At around 11:30 that evening, Madrid and his friend, Joy Cortez, were in front of the Israel Motorworks, Junction I, Puerto Princesa, waiting for a tricycle. A drunk, Arvil Villalon, walking in a zigzag manner, then passed by. After walking some two (2) meters away from the couple, Villalon suddenly turned back and kicked Madrid. Villalon then pulled out a fan knife and attempted to stab the latter. Madrid sustained injuries on his right wrist

and left palm as he parried Villalon's thrusts. While the stabbing incident was taking place, Ariel Mendoza, a friend of Madrid, appeared from his house and came to help Madrid. Mendoza chased Villalon as the latter ran towards the Mami House across the road. Mendoza, however, was not able to overtake Villalon, for Ricolito Rugay suddenly came out from the Mami House, pulled a gun from his waist, and shot Mendoza. Mendoza fell face up. Villalon, who came out from the Mami House together with Rugay, then stabbed Mendoza on the chest. Rugay next turned his gun on Madrid, shot him twice and hit him on the left foot. Rugay and Villalon then fled the scene aboard a tricycle.

Both accused interposed the defense of alibi. Ricolito Rugay testified that he was at his parents-in-law's house in Magsaysay, Aborlan, Palawan, on the evening of August 28, 1991. Rugay, his brother-in-law Blaire Sulpido, Artemio Figueroa alias Jun Bicol, and a certain Pidong were then engaged in a drinking session. The group finished drinking around 10:30 to 11:00 p.m. For his part, accused Arvil Villalon claimed that he was in Taytay, Palawan from August 15 to August 28, 1991, working as the overseer of his father's fishing boats.

Both accused admitted knowing each other but denied being together on the date of the alleged incident. The accused also denied any acquaintance with either Jesus Madrid or Ariel Mendoza. They disavowed any participation in the latter's death. Rugay also denied having possessed any firearm.

The accused presented two witnesses, Artemio Figueroa and Odilon Jaboli, to corroborate their respective alibis.

Artemio Figueroa claimed that he was one of Rugay's drinking buddies at the night of the incident. A neighbor of Rugay's parents-in-law, Figueroa was hired by Rugay as a farmhand to till the latter's one hectare farm. On the evening of August 28, 1991, Rugay allegedly invited Figueroa for a drink at the house of the accused's parents-in-law. Figueroa, together with Rugay, Pedong Baang and Rugay's brother-in-law, stopped drinking at around 10:00 after which they parted ways. During that time, Rugay supposedly never left the house.

Odilon Jaboli, a friend of the Villalon family, testified that on the day of the alleged incident, Villalon was in the former's house where the Villalons usually stayed whenever they were in Taytay. Jaboli allegedly saw him both during the day and the evening of August 28, 1991.

The defense, likewise, offered in evidence the testimony of SPO4 Pedro Guba, a member of the Philippine National Police currently assigned to the Narcotics Command. Guba admitted utilizing Madrid as an "asset" to help pinpoint persons dealing in prohibited drugs. After Madrid's detention on August 15, 1991, however, Guba ceased employing him as such. Guba denied having taken Madrid out of jail on August 28, 1991, saying he had no authority to take the latter in his custody.

Another defense witness, Ms. Aida Vilorio-Magsipoc, a Forensic Chemist from the National Bureau of Investigation (NBI), conducted a chemical examination of the paraffin casts taken from the hands of the accused. She testified that the diphenylamine test on said casts yielded negative results, indicating the absence of nitrate specks on the hands of both accused.

On October 5, 1993, the Regional Trial Court[3] rendered its decision, the dispositive portion of which reads:

WHEREFORE AND IN VIEW OF THE FOREGOING CONSIDERATIONS, JUDGMENT IS HEREBY RENDERED FINDING BOTH THE ACCUSED in Criminal Case No. 9628 guilty beyond reasonable doubt of the crime of Murder as the same is defined and penalized under the Revised Penal Code, sentencing both accused to suffer the penalty of reclusion perpetua as well as to pay the cost. They are furthermore ordered to indemnify the heirs of the deceased the sum of Fifty Thousand (P50,000.00) Pesos as and for the death of the deceased as well as the further sum of Fifty Thousand (P50,000.00) Pesos as and for moral damages jointly and severally.

In Criminal Case No. 9627, judgment is hereby rendered finding the accused Ricolito Rugay alias Jun Rugay guilty beyond reasonable double doubt of the violation of P.D. No. 1866 sentencing said accused to suffer the penalty of reclusion perpetua as well as to pay the costs.

SO ORDERED.[4]

Both accused appealed to this Court. However, accused Arvil Villalon later filed a motion to withdraw his appeal,[5] which was granted by the Court in its Resolution of December 13, 1995,[6] thus leaving accused Ricolito Rugay as the lone appellant in this case.

After a careful study of the evidence on record, we find that the prosecution failed to establish appellant's guilt beyond reasonable doubt.

Appellant's conviction was based mainly upon the testimony of Jesus Madrid. The latter however admitted that he had been in detention at the Puerto Princesa City Jail from August 15, 1991 up to and including the date of the commission of the crime on February 28, 1991 for violation of the Dangerous Drug Law, having been arrested for possession of marijuana. The Court, therefore, entertains serious doubts regarding the opportunity by which this supposed witness came to know of the facts to which he testified. In the ordinary course of nature,[7] Madrid could not have possibly witnessed the events that transpired on the night of August 28, 1991 as he was in detention at the Puerto Princesa City Jail. His assertion that in the evening of August 28, 1991 he was taken out of the jail and used for surveillance purposes by SPO4 Guba was belied by the latter who testified that after August 15, 1991, he no longer utilized Madrid as an asset since Madrid was already in detention and he (Guba) had no authority to place Madrid under his custody.[8]

Other than Madrid's testimony, no evidence was presented to establish Rugay's presence at the scene of the crime. In this connection, it may be asked why the prosecution did not present other eyewitnesses to the incident considering the doubt that certainly could be genuinely raised as to Madrid being where he was at the time of the shooting. The presence of other persons at the scene of the crime is implicit in Madrid's testimony relating to the events transpiring after appellant shot him:

A

I was brought by the people there to our house.

Q

Were you brought to the hospital for medical treatment?

A

Yes, ma'am.

Q

How about Ariel Mendoza, what happened to him if any after he was shot and stabbed?

A

He was brought to the hospital immediately, ma'am.

Q

By whom?

A

By the people from the Mami House.[9]

Yet, none of the “people there” or those “from the Mami House” was ever presented by the prosecution as witnesses to the killing of Ariel Mendoza, or even to confirm Madrid’s presence at Junction I, Puerto Princesa. Neither was Joy Cortez, Madrid’s supposed 1322companion and probably the only other witness to the incident, called upon by the prosecution to testify.[10]

Madrid was allegedly stabbed by Arvil Villalon and, thereafter, shot by Ricolito Rugay, resulting in injuries to his hands and left foot. No medical certificate, however, was shown, nor any doctor, nurse or medical attendant presented to prove that Madrid was treated for said injuries. Neither was there any proof that the scars on his hands, which he exhibited to the trial court, were inflicted by a fan knife or that they were sustained on the alleged date.

It is true that the accused’s defense is inherently weak, grounded as it is on alibi. Nevertheless, the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution’s evidence.[11] Considering the circumstances of this case, the Court is left with no alternative but to acquit appellant Ricolito Rugay of Murder for the failure of the prosecution to prove his guilt beyond reasonable doubt.

The Court, likewise, acquits appellant of the charge of Illegal Possession of Firearms. To warrant conviction for illegal possession of firearms, the prosecution must prove: (1) the existence of the subject firearm, and (2) the fact that the accused who owned or possessed it does not have the corresponding license or permit to possess the same.[12]

The prosecution attempted to prove the second element by presenting a certification[13] from the Philippine National Police to the effect that said office “ha(d) no available information” regarding any license issued to Rugay.

The prosecution nevertheless failed to establish the first element. No firearm was presented in evidence. Moreover, Madrid testified that appellant used a “short gun.”[14] According to Ms. Aida Vilorio-Magsipoc, the NBI Forensic Chemist, a short barreled firearm, as approved to one with a long barrel, would deposit more gunpowder nitrates on the subject.[15] Logically, the use of a short-barreled gun increases the probability that the paraffin tests would yield positive results. Yet, the paraffin tests yielded exactly the opposite. While a negative result on a paraffin test is not conclusive proof that appellant did not fire a gun,[16] such fact, if considered with the other circumstances of this case, may be taken as an indication of his innocence.[17] In criminal cases, every circumstance favoring the innocence of the accused must be duly taken into account.[18]

Finally, the Court notes that the conviction of appellant’s co-accused, Arvil Villalon, rests on the same evidence used to convict appellant. The Court finds that such evidence does not prove beyond reasonable doubt either of the accused’s guilt. The acquittal of Ricolito Rugay should also benefit Arvil Villalon, the withdrawal of the latter’s appeal notwithstanding.[19]

WHEREFORE, the decision appealed from is hereby REVERSED. Ricolito Rugay and Arvil Villalon are hereby ACQUITTED of Murder. Ricolito Rugay is, likewise, ACQUITTED of violation of Presidential Decree No. 1866. Their immediate release from confinement is hereby ordered unless they are detained for some other lawful cause.

SO ORDERED.

Narvasa, C.J., (Chairman), Romero, and Purisima, JJ., concur.

[1] Rollo, p. 6.

[2] Id., at 5.

[3] Branch 50, presided by Judge Angel R. Miclat.

[4] Records, pp. 26-27.

[5] Rollo, p.103.

[6] Id., at 144.

[7] Section 3, Rule 131 of the Rules of Court states:

SEC. 3. Disputable presumptions.- The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

xxx

(y) That things have happened according to the ordinary course of nature and the ordinary habits of life;

xxx.

[8] TSN, February 15, 1993, p. 6.

[9] TSN, April 7, 1992, p. 13. Underscoring ours.

[10] During the trial, the prosecutor manifested to the court that Cortez “had already left... and we do not know her forwarding address and I do not know when she is coming back.” (TSN, February 18, 1992, p. 4.)

[11] People of the Philippines vs. Teddy Quiinao, Rolando Sidro and Baltazar Ortiz, G.R. No. 108454, March 13, 1997.

[12] Reynaldo Gonzales vs. Honorable Court of Appeals and People of the Philippines, G. R. No. 95523, August 18, 1997; People of the Philippines vs. Oscar Villanueva, G. R. No. 118078, July 15, 1997.

[13] Exhibit “D.”

[14] TSN, April 7, 1992, p. 20.

[15] TSN, July 29, 1993, p. 29.

[16] People of the Philippines vs. Noli Pagal and Adolfo Lamqui, G.R. Nos. 112620-21, May 14, 1997.

[17] See People vs. Magallanes, 23 SCRA 1275 (1968).

[18] People vs. Sinatao, 249 SCRA 554 (1995).

[19] Section 11 (a), Rule 122, Rules of Court. Cf. People vs. Ganán, 265 SCRA 260 (1996).

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