

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DAMASO JOB Y MAGBANUA, MANUEL GALLEGO Y LIMA, MACARIO DIAMANTE Y LUNTAO, VICENTE PADRONES Y LABATAGOS AND JOELITO DELA TORRE Y...

G.R. Nos. 116084-85. March 09, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the consolidated decision dated March 21, 1993, of the Regional Trial Court of Quezon City involving two cases, Criminal Cases No. Q-93-40271, for kidnapping with ransom; and No. Q-93-40272, for illegal possession of firearm. However, we are here concerned mainly with the first case, because the accused in the second case, Damaso Job y Magbanua, did not appeal his conviction.

In an Information dated January 15, 1993, accused Joelito dela Torre, Damaso Job,[1] Manuel Gallego, Macario Diamante and Vicente Padrones, were charged with the crime of kidnapping, under the following allegations:

"That on or about the 7th day of January, 1993, in Quezon City, Philippines, the above-named accused, conspiring with three other persons, whose true names, identities, and whereabouts have not as yet been ascertained, confederating with and mutually helping with one another, did then and there wilfully, unlawfully and feloniously kidnap one CHARLENE SY who was then on board an L-300 Pick-up van with Plate No. DGM-534 along Quirino Highway, Sangandaan, Quezon City and then and there illegally detaining and depriving her of her liberty, for the purpose of demanding ransom money in the amount of TEN MILLION PESOS (P10,000,000.00), Philippine Currency, for her release, to the damage and prejudice of the offended party.

CONTRARY TO LAW."[2]

On March 21, 1993, the trial court rendered its decision finding the accused guilty beyond reasonable doubt of the crime charged, viz:

"WHEREFORE, in view of the foregoing, this Court in Criminal Case No. Q-93-40271 (KIDNAPPING FOR RANSOM) finds the herein accused DAMASO JOB Y MAGBANUA @ DAMA/CACHOT/PETER MAGBANUA, MANUEL GALLEGO Y LIMA @ MANNY, MACARIO DIAMANTE Y LUNTAO @ ROY LUNTAO, VICENTE PADRONES Y LABATAGOS @ VICTOR, and JOELITO DE LA TORRE Y ARROYO @ BEBOT, guilty beyond reasonable doubt of the crime of KIDNAPPING and hereby sentences them to suffer the penalty of RECLUSION PERPETUA, together with the accessory penalties, provided for by law, and to pay the costs. However, in the service of their respective sentences, the herein accused are entitled to the benefits of the provisions of Article 29 of the Revised Penal Code, as amended by RA No. 6127, and further amended by EO No. 214, provided they do not fall within the exceptions thereof.

xxx

SO ORDERED."[3]

The antecedent facts, culled from the records of the case, are as follows:

As early as January 4, 1993, Sr. Inspector Napoleon Cuaton, Chief Operations Officer, Office of the Assistant Regional Director for Intelligence of the Philippine National Police, received information that members of a group led by accused Damaso Job will conduct a kidnap for ransom operation on the morning of January 7, 1993.[4] A plan to thwart the kidnappers' operation was thus prepared, with Chief Cuaton enlisting the support of Task Force Hammerhead, composed of agents of the Intelligence Service of the Armed Forces of the Philippines (ISAFP).[5]

On January 7, 1993, Chief Cuaton assigned his men to monitor different areas in Barangay San Bartolome, Novaliches, Quezon City.[6] They were informed that kidnappers were using five vehicles: (1) a stainless owner type jeep; (2) a white Nissa Sentra super saloon; (3) a Mitsubishi Pajero; (4) a motorcycle; and (5) a 16-valve Toyota Corolla.[7]

Chief Cuaton assigned one of his men to closely monitor the activities of the kidnappers through a known radio frequency. Cuaton's operatives intercepted the following coded message: "Hindi na namin nakuha ang paninda,"[8] which the police interpreted to mean that the kidnappers were unable to take the supposed victim on that day.[9]

Chief Cuaton and his operatives spotted the kidnappers' owner type jeep at the intersection of Quirino Avenue and the street heading towards Holy Cross Memorial Park, in Quezon City. They promptly alerted the other police operatives through radio.[10] Cuaton's operatives followed the jeep when it moved towards the direction of Balintawak, Quezon City, but they were caught in heavy traffic along the way. Cuaton informed his colleague, Sr. Inspector Norberto Surara, of this fact through radio. They determined that the suspected kidnappers in the jeep were possibly carrying firearms;[11] Cuaton ordered his operatives to apprehend and intercept the suspects' vehicles for possible illegal possession of firearms.[12]

Shortly thereafter, in Balintawak, Cuaton alighted from his vehicle and ran to where there was a commotion. He saw a stalled Mitsubishi L-300 van.[13] He went near the van but found the driver was not inside. Cuaton asked bystanders who the driver was. They pointed to one Damaso Job. Cuaton apprehended and frisked Job. Found tucked in the latter's waist was a .45 caliber pistol.[14]

Chief Cuaton, along with five of his men, stayed to inspect the van, while Surara and his men followed the other vehicles of the kidnappers. Inside the van, Cuaton saw books with the name "Charlene Sy" written on them. Cuaton's group then followed the other operatives in the direction of Cubao, Quezon City.

Meanwhile, Surara and the other operatives chased the other vehicles of the suspects. The white Nissan Sentra, heading towards the direction of Cubao, stopped along EDSA before reaching Quezon Avenue due to a red light. One police vehicle blocked the Nissan Sentra's front, and another blocked its rear.[15]

Surara called the occupants of the car to surrender to avoid a confrontation. When nobody responded, Surara's operative, one Sgt. Hilario Caranay, tried to open the right front door of the Nissan Sentra.[16] Finding the door locked,[17] Caranay kicked it,[18] but a shot rang out from inside the car and hit him. He crawled to safety. Immediately thereafter, a man from inside the Nissan Sentra came out with his hands raised.[19] He was later identified as Manuel Gallego, one of the accused-appellants.

As another police officer, one Cpl. Wilberto Maano, was putting handcuffs on Gallego, the left door of the Nissan Sentra opened. Surara saw an M-16 armalite rifle pointing outward. Then the person holding the armalite rifle fired a shot at Maano. Surara returned fire, shooting at the Nissan Sentra. There followed simultaneous firing[20] from the car occupants and the police-military operatives. The Nissan Sentra was heavily tinted, such that the law enforcement officers could not see inside the car to find out who was shooting at whom.

When the shoot-out ended, the police found all five occupants of the car had been killed. Unfortunately included was one Charlene Sy, the alleged 15-year-old kidnap victim. Also killed were Mike Decir, the alleged leader of the kidnapping group, and Sonny Amoranto, the Sy family driver who was also alleged to be a member of the kidnapping group.[21] Recovered from the Nissan Sentra were two long firearms, two M-16 rifles, a baby armalite rifle, a .45 caliber para-ordnance pistol, one ordinary pistol, and one bladed weapon.[22]

Upon arrival of police investigators from Station 4 of the Central Police District, Chief Cuaton ordered Surara to forthwith conduct a follow-up operation to apprehend the rest of the kidnappers who had eluded arrest by the law enforcement agents. After two to three hours, the police operatives found the safehouse of the kidnappers in Cabuyao, Laguna.[23] Arrested in the safehouse were suspects Macario Diamante, Vicente Padrones, and Joelito de la Torre.[24]

Assisted by counsel, Damaso Job and Manuel Gallego executed extra-judicial confessions in connection with the crime. The confession of Gallego was taken on January 8, 1993,[25] while that of Damaso Job was taken on January 10, 1993.[26] They named their co-conspirators in the plot to kidnap Charlene Sy and demand a P10-million ransom from her parents. Gallego, in particular, identified as their co-plotters those arrested in Cabuyao, namely Diamante, Dela Torre, and Padrones.[27]

After trial, all of the accused were convicted of the crime of kidnapping. Except for Damaso Job they filed a notice of appeal on April 21, 1994.[28] On October 24, 1994, the counsel de parte of these accused withdrew his appearance from this case;[29] the accused's written conformity thereto was received by the Court on April 3, 1995.[30] Consequently, in a resolution dated June 7, 1995, the Court directed the accused to provide it with the name and address of their new counsel, or to inform it if they desire to be represented by a counsel de oficio to be appointed by it. Only accused Joelito dela Torre complied with this directive, requesting for a counsel de oficio in a letter dated July 16, 1995.[31] The Public Attorney's Office was, thus, assigned as Dela Torre's counsel de oficio. The PAO, on behalf of appellant Dela Torre only, filed an appellant's brief in this case. We are, therefore, concerned only with Dela Torre's appeal now.

In his brief, appellant Dela Torre makes a lone assignment of error:

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT JOELITO DELA TORRE GUILTY OF THE CRIME OF KIDNAPPING FOR RANSOM WITHOUT SUFFICIENT EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[32]

Appellant Dela Torre was arrested at the residence of Mike Decir, one of those killed in the encounter with lawmen on January 7, 1993. Appellant claims he first met Decir in Iloilo. On December 29, 1992, the two of them met again when appellant came to Manila and Decir visited him at the house of his (appellant's) sister. In the course of their conversation on that day, according to appellant, he informed Decir of his piggery business in Iloilo and of his desire to borrow money from Decir for additional capital. Decir had on previous occasions extended financial assistance to appellant. According to appellant, Decir agreed to lend him money and told him to see him in Laguna before leaving for Iloilo. Appellant said he went to see Decir in Laguna on January 7, 1993. While he was waiting for Decir, some 20 armed men arrived and arrested him, along with accused Diamante and Padrones.

Appellant now insists that his guilt had not been proved beyond reasonable doubt, because his involvement in the conspiracy to kidnap Charlene Sy was not proved by direct and positive evidence. He argues that the only indication of his alleged involvement in this case is his having previously known Decir and his unfortunate presence at Decir's house, purportedly to borrow money, on January 7, 1993.

Moreover, appellant claims that the extrajudicial confession executed by accused Gallego and Job cannot be used

to establish his culpability, but only of the confessants themselves. However, the Solicitor General contends that the extrajudicial confessions of Gallego and Job are in the nature of interlocking confessions that can be used against all their co-accused.

As a general rule, an extrajudicial confession by an accused may be given in evidence only against him, but not against his co-accused. This rule, however, admits of exceptions. Where several extrajudicial confessions had been made by several persons charged with the same offense, without the possibility of collusion among them, the fact that the statements are in all material respects identical is confirmatory of the confessions of the co-defendants and is admissible against other persons implicated therein.[33] Such confessions are commonly known as interlocking confessions.[34]

The extrajudicial confessions of accused Gallego and Job are in the nature of interlocking confessions. They were made independently of each other. They contain similar material details which only persons involved in their criminal plot could have known: the vehicle used by the group, how the kidnapping was committed, the amount of ransom which would have been demanded from the victim's parents, the location of the group's safehouse, and the names of the other members of the group. Therefore, as an exception to the general rule, these confessions may properly be used in evidence against herein appellant, being one of several persons implicated therein.

Moreover, also as an exception to the general rule, the extrajudicial confessions may be used by way of circumstantial evidence regarding the actual criminal participation of the co-conspirator named in the confession.[35] In this regard, apart from being tagged by his co-conspirator as among those involved in kidnapping Charlene Sy, appellant was found in the kidnappers' safehouse in Cabuyao, Laguna, where the victim was planned to be brought, on the same day the crime was committed. Appellant offered no plausible reason for his presence at the safehouse. His claim that he went there only to borrow money from Mike Decir, on the exact same day that the kidnapping was perpetrated, was found unworthy of belief.

The trial court did not give credence to appellant's denial of his participation in the crime. Appellate courts accord the highest respect for the trial court's assessment of the credibility of witnesses, since the trial court is in the best position to observe the deportment and demeanor of witnesses during trial.[36] We find no compelling reason to disturb the finding of the trial court in this regard.

The trial court convicted appellant of kidnapping and sentenced him to suffer the penalty of reclusion perpetua. We find this to be in accord with Article 267 of the Revised Penal Code, which states in part:

Art. 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

xxx

4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female, or a public officer.

xxx

WHEREFORE, the judgment of the Regional Trial Court of Quezon City, finding appellant Joelito Dela Torre guilty of kidnapping and imposing upon him the penalty of reclusion perpetua, is hereby **AFFIRMED**.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

- [1] Only Job was separately charged with illegal possession of firearms, which case was consolidated with the kidnapping case.
- [2] Rollo, pp. 5-5A.
- [3] Id. at 42-43.
- [4] TSN, April 16, 1993 (a.m.), pp. 8-9.
- [5] TSN, February 26, 1993, pp. 30, 33, 47.
- [6] TSN, April 16, 1993 (a.m.), pp. 13-14.
- [7] Id. at 12; See also TSN, February 26, 1993, p. 9.
- [8] Id. at 16-17. Literally: "We failed to get the goods."
- [9] TSN, February 26, 1993, p. 13; April 16, 1993 (p.m.), p. 28.
- [10] Id. at pp. 14-15.
- [11] TSN, February 26, 1993, p. 14.
- [12] TSN, April 16, 1993 (a.m.), p. 17.
- [13] Id. at 18.
- [14] Id. at 19-20.
- [15] TSN, February 26, 1993, pp. 16-17, 39; March 18, 1993, p. 33.
- [16] TSN, February 26, 1993, p. 17.
- [17] Ibid.
- [18] TSN, February 26, 1993, p. 44.
- [19] Id. at 18.
- [20] Id. at 20, 22.
- [21] TSN, April 16, 1993 (p.m.), pp. 8-10.
- [22] TSN, February 26, 1993, pp. 22-23.
- [23] TSN, April 16, 1993, pp. 30-31.
- [24] TSN, March 18, 1993, pp. 41-42; April 16, 1993, p. 32.
- [25] Records, p. 33.
- [26] Id. at 41. Cuaton stated on the witness stand that the extrajudicial confessions were taken on the same day, although he could not remember the exact date. TSN, April 16, 1993 (p.m.), pp. 49, 52-55.
- [27] Records, p. 38.
- [28] Rollo, p. 44.
- [29] Id. at 48.
- [30] Id. at 50-51.
- [31] Id. at 53.
- [32] Id. at 73.
- [33] *People v. Lising*, 285 SCRA 595, 625 (1998).
- [34] *People v. Lising*, supra; R.J. FRANCISCO, BASIC EVIDENCE 142 (1992).
- [35] FRANCISCO, supra; *People v. Molleda*, 86 SCRA 667, 701 (1978).
- [36] *People v. Lacerna*, 278 SCRA 561, 582 (1997); *People v. Ang Chun Kit*, 251 SCRA 660, 666 (1995).

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