

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERLINDA DELA CRUZ, LARRY PERIDAS AND GERRY VENTURINA (AT LARGE), ACCUSED. ERLINDA DELA CRUZ AND LARRY PERIDAS, ACCUSED-APPELLA...

G.R. Nos. 141162-63. July 11, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Before us is an appeal of the joint decision of the Regional Trial Court of Malolos, Bulacan, Branch 78, finding accused-appellant Larry Peridas guilty beyond reasonable doubt of homicide in Criminal Case No. 828-M-98, and finding both accused-appellants Erlinda Dela Cruz and Larry Peridas guilty beyond reasonable doubt of violation of Republic Act. No. 6539, otherwise known as the Anti-Carnapping Act of 1972, in Criminal Case No. 829-M-98.

Accused-appellants Erlinda Dela Cruz and Larry Peridas, together with Gerry Venturina, were charged in the following informations:

Criminal Case No. 828-M-98

That on or about the 15[th] day of January, 1998, in the municipality of Pulilan, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above named accused armed with bladed instrument and with intent to kill one Ysmael Mananquil, conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously, with evident premeditation, abuse of superior strength and treachery, attack, assault and stab with the bladed instrument the said Ysmael Mananquil y Aguilar, hitting the latter on the different parts of his body, thereby causing him serious physical injuries which directly caused his death.

Contrary to Law.[1]

Criminal Case No. 829-M-98

That on or about the 15[th] day of January, 1998, in the municipality of Pulilan, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and without the knowledge and consent of the owner thereof, take steal, and carry away with them one (1) taxi car "KIA" bearing Plate No. PVS 468, belonging to one Alvin G. Sanchez, to the damage and prejudice of the said owner.

Contrary to Law.[2]

The two cases were consolidated. Upon arraignment, both accused-appellants entered a plea of not guilty. Accused Gerry Venturina, on the other hand, remained at large. After joint trial, judgment was rendered against accused-appellants, the dispositive portion[3] of which reads:

WHEREFORE, the foregoing considered,

1. In Crim. Case No. 828-M-98

accused Erlinda dela Cruz y Sanchez is hereby ACQUITTED of the crime charged, while accused Larry Peridas is hereby found GUILTY beyond reasonable doubt of the crime of Homicide and sentenced to suffer the indeterminate penalty of 12 years of prision mayor as minimum to 17 years 4 months and 1 day to 20 years of reclusion temporal as maximum and to pay the bereaved family of victim Ysmael Mananquil the amount of P60,000.00 as compensatory damages and P75,000.00 as indemnity for the victim's death.

2. In Crim. Case No. 829-M-98

accused Erlinda dela Cruz y Sanchez and Larry Peridas are hereby found GUILTY beyond reasonable doubt of Violation of Republic Act 6539 otherwise known as the Anti-Carnapping Act of 1972, as amended, and sentenced to suffer the penalty of reclusion perpetua with all its accessory penalties.

The instant cases as against accused Gerry Venturina are hereby ordered sent to the files of ARCHIVED cases pending the arrest of said accused. Accordingly, let a warrant of arrest be issued for his immediate apprehension to stand trial before this Court.

With costs.

SO ORDERED.

The facts of the case are as follows:

On January 15, 1998, at about 2:30 in the morning, accused-appellants Erlinda Dela Cruz and Larry Peridas went to the house of Meliton Estrella in Poblacion, Plaridel, Bulacan on board a KIA Pride taxicab, which Dela Cruz drove. When they arrived at Estrella's house, Dela Cruz went inside to invite him to go with them, while Peridas stayed in the taxicab. When Estrella went out, he saw a man lying on the floor of the taxicab whose head was being pinned down by Peridas' foot. Afraid of being implicated, Estrella refused to go saying, "Ilayo ninyo 'yan at baka pati ako ay madamay.'"[4] Accused-appellants left and proceeded to the house of accused Gerry Venturina in Baliuag, Bulacan. There they stripped the taxicab of all its accessories.[5]

Later that day, at about 7:00 a.m., Peridas returned to Estrella's house. Peridas told Estrella that he had killed the man and Venturina threw away the body in Pulilan.[6] Since his clothes were covered with bloodstains, he borrowed clothes from Estrella and asked him to burn his sando and t-shirt. Estrella did not burn the bloodied clothes. Instead, he turned them over later to the National Bureau of Investigation Office in Pulilan.

Peridas left to fetch the son of Dela Cruz. He returned to Estrella's house at about 10:30 to 11:00 a.m. There, he waited for Dela Cruz, who arrived at past twelve noon driving the same taxicab Estrella earlier saw. The license plate of the vehicle had been replaced from one bearing the number: PVS 468 to one with the number: TAU 667.

Accused-appellants, together with Estrella and Dela Cruz's son, boarded the taxicab and drove to Guimba, Nueva Ecija. Along the way, they were flagged down at a checkpoint set up by the Traffic Command. Dela Cruz was unable to show her license and the vehicle's registration, but the police officers let them through after she told them that she is the wife of Gerry Venturina.

They stopped by Laur, Nueva Ecija to borrow money from a friend of Dela Cruz, after which they proceeded to Peridas' house in Guimba. That same night, Dela Cruz drove back to Plaridel. Before she left, Estrella tried to borrow money from Dela Cruz for his fare back to Plaridel but she turned him down. So, Estrella had to stay in Guimba for three days until he was able to borrow money from Peridas on the pretext that he was going to fetch Dela Cruz.

When Estrella arrived in Plaridel, he informed his elder sister about the incident. Together, they reported the matter to Capt. Iletto and SPO4 Ireneo Mauricio, then to NBI-Pulilan, where he turned over the sando and t-shirt which Peridas asked him to burn. The investigation led to the recovery of the corpse of Ysmael Mananquil in Pulilan, Bulacan as well as the taxicab used by accused-appellants, which was found five meters away from the residence of Dela Cruz. Eventually, accused-appellants Dela Cruz and Peridas were arrested.

In her defense, accused-appellants Erlinda Dela Cruz alleged that at 2:00 a.m. of January 15, 1998, she was asleep in her house in Ma. Lourdes Subdivision, Tabang, Plaridel, Bulacan, together with her siblings, children and accused-appellant Larry Peridas. On January 16, 1998, she stayed home to do her chores. On January 18, 1998, she stayed home in the morning and, in the evening, went to the Monte Carlo Videoke in Baliuag where she worked. She claimed that during all this time, she never saw Meliton Estrella.[7]

Accused-appellant Larry Peridas likewise testified that he was sleeping in the house of Dela Cruz on January 15, 1998, when the alleged crimes took place. He stayed there for a few days and helped in the housework.[8]

One Reynaldo Trinidad corroborated accused-appellants' testimonies that they were in Dela Cruz's house on the date and time of the alleged commission of the crimes.[9]

After trial, the lower court rendered judgment against accused-appellants. Hence, this appeal, which raises the following issues:

I

WHETHER OR NOT THE SO-CALLED INVESTIGATION OF THESE TWO CASES HAVE BEEN IMPROPERLY MADE AND WRONGLY EXECUTED.

II

WHETHER OR NOT THE PRESIDING JUDGE RELIED HEAVILY ON WITNESS MELITON ESTRELLA'S PERJURED TESTIMONY.

III

WHETHER OR NOT CIRCUMSTANTIAL EVIDENCE ARE APPLICABLE IN THESE CASES.

IV

WHETHER OR NOT DEFENSE EVIDENCE HAVE BEEN GLOSSED OVER AND GIVEN SCANT CONSIDERATION BY THE TRIAL COURT.

In their joint brief, accused-appellants allege that the following irregularities attended the investigation of the case, to wit: (1) that nothing was done by the authorities from the time Capt. de Armas of Plaridel called that a cadaver was retrieved from Barangay Agnaya until January 22, 1998, when Inspector Iletto received information about a carnapping and murder incident; (2) that Meliton Estrella actually gave himself up for his implication in the murder and carnapping; (3) that Inspector Iletto and SPO4 Mauricio did not conduct an investigation but merely relied on the NBI report which was a complete falsehood; (4) that the subject taxicab, which was parked adjacent to the PNP Crime Laboratory, was not subjected to physical and forensic investigation; (5) that the NBI and PNP committed shortcuts in pursuing the investigation; (6) that NBI Agent Serafin Gil is not a lawyer and violated their rights under the Miranda doctrine; and (7) that Inspector Iletto is a graduate of Bulacan National Agricultural School with no background in criminal investigation and intelligence.

The above arguments involve factual issues, the resolution of which require our re-evaluation of the trial court's findings of facts. To do so, however, will be an unnecessary deviation from the jurisprudential rule that conclusions of the trial court on the credibility of witnesses are generally not disturbed by appellate courts. Trial courts are in a better position to decide the issues, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[10] The exception to this rule is where there is proof of some fact or circumstance of weight and influence that might have been overlooked, or its significance misinterpreted, by the trial court which, if properly considered, could affect the result of the case.

After a meticulous review of the records, we find no compelling reason to depart from such rule.

The evidence on record show that, contrary to accused-appellants' assertion, it was only on January 22, 1998 that SPO4 Ireneo Mauricio, Capt. Iletto[11] and NBI Agent Serafin Gil[12] first came to know, through Meliton Estrella, about the carjacking of the taxicab, the killing of the driver thereof and the subsequent dumping of the body somewhere in Pulilan. Acting on the information given by Estrella, they were able to recover the subject vehicle at Dela Cruz's house in Agnaya, Plaridel, Bulacan, and asked the family of Ysmael Mananquil to identify his decomposing corpse.

Anent the claim that Dela Cruz was arrested without warrant, forced to sign a document, and detained for more or less 3 to 4 weeks,[13] there is no showing that she objected to the manner of her arrest and detention before she entered her plea and participated in the trial. Pertinent hereto is our ruling in *People v. Lopez*,[14] to wit:

[I]t is too late for appellant to raise the question of his arrest without a warrant. When accused-appellant was arrested and a case was filed against him, he pleaded not guilty upon arraignment, participated in the trial and presented his evidence. Appellant is thus estopped from questioning the legality of his arrest. It is well-settled that any objection involving a warrant of arrest or procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived. Besides, this issue is being raised for the first time by appellant. He did not move for the quashal of the information before the trial court on this ground. Consequently, any irregularity attendant to his arrest, if any, was cured when he voluntarily submitted himself to the jurisdiction of the trial court by entering a plea of not guilty and by participating in the trial. Moreover, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after trial free from error.

Coming now to the sufficiency of proof of their guilt, accused-appellants contend that the testimony of Meliton Estrella was perjured; that the evidence against them consisted of circumstantial evidence which was not sufficient to establish their guilt; and that the trial court merely glossed over and gave scant consideration to the evidence they presented.

The contentions lack merit. We agree with the trial court's findings that the testimony of prosecution witness Meliton Estrella was clear, straightforward and devoid of any signs of artificiality. Moreover, no improper motive was imputed on Estrella who positively identified both accused-appellants as the perpetrators of the offense.[15]

Accused-appellants next assail the trial court's reliance on circumstantial evidence. We have long held that circumstantial evidence is sufficient for conviction in criminal cases where there is more than one circumstance derived from the facts duly given and the combination of all is such as to produce conviction beyond reasonable doubt. The test for accepting circumstantial evidence as proof of guilt beyond reasonable doubt is: the series of circumstances duly proved must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.[16]

In the case at bar, the trial court based its judgment of conviction on the following established facts: that Dela Cruz and Peridas arrived in Plaridel at 2:30 in the morning of January 15, 1998 on board a taxicab; that the

accessories of the taxicab were removed and its license plate was replaced; that accused-appellants were unable to produce the registration papers of the vehicle; that the subject vehicle was identified as the one driven by Ysmael Mananquil before its loss on January 15, 1998; and that the missing taxicab was recovered by the police from Dela Cruz.[17]

We find that the foregoing facts constitute an unbroken chain of events that undeniably point to the culpability of accused-appellants for violation of the Anti-Carnapping Act. The testimony of Meliton Estrella was corroborated by the testimony of SPO4 Mauricio, NBI Agent Serafin Gil and Capt. Iletto. The testimony of the police officers carried with it the presumption of regularity in the performance of official functions.[18] Moreover, accused-appellants failed to overcome the disputable presumption that “a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act.”[19]

The trial court convicted accused-appellant Larry Peridas only of homicide based on its finding of guilt due to Peridas’ admission to Meliton Estrella that he had disposed of (tinapos) Mananquil, whose body was dumped in Pulilan, Bulacan, where it was later found by the police. Prior to that, Estrella saw Peridas stepping on the head of Mananquil on the floor of the carnapped vehicle. In other words, it was Peridas who was with the victim when the latter was last seen alive by Estrella.[20] However, the allegations of evident premeditation, abuse of superior strength and treachery as qualifying circumstances were not sufficiently established, thus the crime committed was only homicide.[21]

In *Aballe v. People*,[22] we held that the declaration of an accused expressly acknowledging his guilt of the offense may be given in evidence against him and any person, otherwise competent to testify as a witness, who heard the confession, is competent to testify as to the substance of what he heard if he heard and understood it. The said witness need not repeat verbatim the oral confession; it suffices if he gives its substance.

In the recent case of *People v. Zuela*,[23] we ruled that an admission made to a private person is admissible in evidence against the declarant pursuant to Rule 130, Section 26 of the Rules of Court, which states that the “act, declaration or omission of a party as to a relevant fact may be given in evidence against him.”

In their defense, accused-appellants can only raise alibi and bare denial. Alibi is the weakest of all defenses, because it is easy to concoct and difficult to disprove. For alibi to prosper, it is not enough to prove that the defendant was somewhere else when the crime was committed; he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time. Furthermore, alibi cannot prevail over the positive and unequivocal identification of accused-appellants. Categorical and consistent positive identification, absent any showing of ill-motive on the part of the eyewitness testifying on the matter, prevails over accused-appellant's defense of denial and alibi. Unless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law.[24]

The trial court was correct in convicting accused-appellants separately on the charges of carnapping and homicide, rather than qualified carnapping or aggravated form of carnapping,[25] as defined in Section 14 of Republic Act No. 6539, as amended by Section 20 of Republic Act No. 7659, which imposes the penalty of reclusion perpetua to death whenever the owner, driver or occupant of the carnapped motor vehicle is killed in the course of the commission of the carnapping or on the occasion thereof.

In the case at bar, accused-appellants were charged separately with the crimes of carnapping and murder. We cannot convict them of the crime of qualified carnapping, which consists of the two crimes alleged in the two separate information, without impairing their constitutional right to be informed of the nature and cause of the accusation against them.[26]

However, the trial court erred in imposing the penalty of reclusion perpetua for the crime of carnapping, considering that the Information neither alleged that the victim was killed in the course of the commission of the carnapping or on occasion thereof,[27] or that the carnapping was committed by means of violence against or intimidation of any person. The crime alleged being only carnapping under the first clause of R.A. 6539, Section 14, as amended, the proper penalty to be imposed must not be less than fourteen (14) years and eight (8) months and not more than seventeen (17) years and four (4) months. Under the Indeterminate Sentence Law[28], if the offense is punished by a special law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum term shall not be less than the minimum prescribed by the same. Thus, we hold that the proper penalty to be imposed on each of the accused-appellants is an indeterminate sentence of fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum.

On the other hand, the penalty for homicide is reclusion temporal, the range of which is from twelve (12) years and one (1) day to twenty (20) years. Applying the Indeterminate Sentence Law, and there being no modifying circumstance, we hereby sentence accused-appellant Larry Peridas to a prison term of eight (8) years, four (4) months and ten (10) days of prision mayor, as minimum, to fourteen (14) years, ten (10) months and twenty (20) days of reclusion temporal, as maximum[29]

Finally, we reduce the award of Seventy Five Thousand Pesos (P75,000.00) ordered by the trial court as indemnity for the victim's death to Fifty Thousand Pesos (P50,000.00), consistent with current jurisprudence.[30]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court, Branch 78, Malolos, Bulacan, in Criminal Case No. 828-M-98, finding accused-appellant LARRY PERIDAS guilty beyond reasonable doubt of homicide, is **AFFIRMED** with the **MODIFICATION** that he is sentenced to an indeterminate prison term of eight (8) years, four (4) months and ten (10) days of prision mayor, as minimum, to fourteen (14) years, ten (10) months and twenty (20) days of reclusion temporal, as maximum. In addition, said accused-appellant LARRY PERIDAS is ordered to pay death indemnity to the heirs of Ysmael Mananquil in the amount of P50,000.00.

The decision of the Regional Trial Court, Branch 78, Malolos, Bulacan, in Criminal Case No. 829-M-98, finding accused-appellants LARRY PERIDAS and ERLINDA DELA CRUZ guilty beyond reasonable doubt of violation of Republic Act No. 6539, as amended, is **AFFIRMED** with the **MODIFICATION** that said accused-appellants are sentenced to an indeterminate prison term of fourteen (14) years and eight (8) months, as minimum, to seventeen (17) years and four (4) months, as maximum.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Austria-Martinez, JJ., concur.

[1] Records, pp. 2-3.

[2] Records, pp. 8-9.

[3] Rollo, Decision, pp. 81-82.

[4] TSN, August 21, 1998, p. 5.

[5] Ibid., p. 12.

[6] Id., p. 8.

- [7] TSN, April 30, 1999, pp. 2-3.
- [8] TSN, May 24, 1999, p. 3.
- [9] TSN, June 7, 1999, p. 14.
- [10] *People v. Ellado, et al.*, G.R. No. 124686, March 5, 2001.
- [11] TSN, June 7, 1999, p. 3.
- [12] TSN, November 13, 1998, p. 3.
- [13] *Rollo*, Appellants' Brief, p. 61.

[14] 245 SCRA 95, 105-106 [1995].

- [15] *Rollo*, Decision, p. 31.
- [16] *People v. Rondero*, 320 SCRA 383, 396-397 [1999].
- [17] *Rollo*, Decision, p. 29.
- [18] *People v. Khor*, 307 SCRA 295 [1999].
- [19] Sec. 3[j], Rule 131, Rules of Court.
- [20] *Rollo*, Decision, p. 80.
- [21] *Ibid.*, p. 73.

[22] 183 SCRA 196 [1990].

- [23] 323 SCRA 589, 606 [2000], citing *People v. Maqueda*, 242 SCRA 565 [1995].
- [24] *People v. Basquez*, G.R. No. 144035, September 27, 2001.
- [25] *People v. Mejia*, 275 SCRA 127, 153 [1997].
- [26] *People v. Manalili*, 294 SCRA 220, 252 [1998].
- [27] *People v. Ubaldo*, 342 SCRA 338, 350 [2000].
- [28] Section 1, R.A. 4104, as amended.
- [29] *People v. Calbaroso*, 340 SCRA 332, 345 [2000].
- [30] *People v. Manzano*, G.R. No. 138303, November 26, 2001.

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