

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIO TENEBRO, DEFENDANT-APPELLANT.

G.R. Nos. 87760-61. November 12, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal interposed from the judgment rendered by the Regional Trial Court of South Cotabato in Criminal Cases Nos. 4100 and 4101, finding the accused, Julio Tenebro, guilty of the crimes of Murder and Parricide and sentencing him, in each case, to suffer the penalty of reclusion perpetua and to indemnify the heirs of the victim in the amount of P30,000.00 and to pay the costs.

In two (2) separate Informations filed with the Regional Trial Court of South Cotabato, Julio Tenebro was charged with the crimes of Murder and Parricide, allegedly committed, as follows:

1. Criminal Case No. 4100, for Murder:

"That on or about the 20th day of October, 1985, at Sitio Kitagas, Barangay Katubao, Municipality of Kiamba, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, said accused armed with a piece of wood and with evident premeditation and treachery, did then and there with intent to kill willfully, unlawfully and feloniously attack, assault and beat one IGMEDIO AMBAT, JR. with the use of the said piece of wood, inflicting on him multiple skull fractures and widespread echymosis covering the entire face and as a result thereof said IGMEDIO AMBAT, JR. died thereafter." [1]

2. Criminal Case No. 4101, for Parricide:

"That on or about the 20th day of October, 1985, at Sitio Kitagas, Barangay Katubao, Municipality of Kiamba, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, said accused armed with a piece of wood, with evident premeditation and treachery and lack of respect due to age of the offended party, did then and there with intent to kill willfully, unlawfully and feloniously attack, assault and beat his grandmother Antonia vda. de Tenebro with the use of the said piece of wood hitting her and inflicting on her multiple skull fractures on the jaw and forehead and multiple lacerated wounds on her head, and as a result thereof said ANTONIA VDA. DE TENEBRO died thereafter." [2]

When arraigned, the accused Julio Tenebro pleaded "Not Guilty" to the commission of the crimes charged. [3]

The evidence of record shows that in the morning of 21 October 1985, the dead bodies of Antonia Tenebro, an 85 year-old widow, and her houseboy, Igmedio Ambat, Jr., were found at the old woman's residence in Sitio Kitagas, Barangay Katubao, Kiamba, South Cotabato. The post-mortem examination showed that Antonia Tenebro sustained "multiple skull fracture (jaw, forehead), multiple lacerated wounds (head), and widespread Echymosis, lower half of the face" [4] while Igmedio Ambat, Jr. suffered "multiple skull fracture (Acciput), and widespread Echymosis, covering the entire face." [5] The cause of death in both cases was "Hemorrhage due to multiple skull fracture." [6]

The deaths were reported to an Army detachment posted nearby and to the policemen of Kiamba who then conducted an investigation. Upon questioning, Benig Macampao, the old woman's encargado, and Igmedio Ambat, Sr., father of the slain houseboy, who both lived nearby, shared a suspicion that Ruben Bustamante, who did odd jobs for the deceased widow and whom they saw in the house of Antonia Tenebro in the evening of 20 October 1985, was the culprit since he had suddenly left the place after paying his debt to a sister very early in the morning of 21 October 1985.[7]

Accordingly, a search for the said Ruben Bustamante was made. Army soldiers found him in Sitio Lomoyan, also of Kiamba town. He was brought to the police station and upon interrogation, he denied the killings and pointed to Julio Tenebro, a grandson of Antonia Tenebro, as the person responsible. He declared that in the early evening of 20 October 1985, Julio Tenebro passed by his house and brought him to a tuba store near the barangay hall of Kitagas where Julio Tenebro bought half a gallon of tuba. After Julio Tenebro had consumed the tuba, which he drank by himself, as Ruben Bustamante was recuperating from an illness, they went home. When they came near the house where Antonia Tenebro lived, Julio Tenebro went to the drier or "pugon" and got a piece of wood ("dos por dos"). Bustamante asked what it was for, but Julio Tenebro told him to just keep quiet.

Julio Tenebro then knocked on the door and it was opened by Igmedio Ambat, Jr. Julio Tenebro told Bustamante to get inside the house, but the latter refused, so that he was left outside. Upon entering the house, Julio Tenebro told the boy to go back to sleep and proceed upstairs, to the living quarters of Antonia Tenebro. Bustamante then heard sounds, as if somebody was being beaten, coming from upstairs. After a short while, he saw Julio Tenebro beating the boy, Igmedio Ambat, Jr., who was sleeping, on the head, three times. After beating the boy, Julio Tenebro went outside and told Bustamante not to talk or else he will also kill him. Then, they parted. Bustamante went to his own house. He did not report the incident because he was afraid that Julio Tenebro would also kill him.[8]

As a result, Julio Tenebro was arrested in the afternoon of 21 October 1985. But he was released the next day. After his release, Julio Tenebro went to the wake of his grandmother, where he met his aunt, Luciana Tenebro-Calatrava. Her uncontroverted testimony reads:

"A On October 22, 1985 at about 10:00 o'clock in the morning, my niece Imelda and I went inside the room of my mother and we sat on the bed and I was so sad because of what happened to my mother and later on, Julio Tenebro came in and he said: 'AUNTIE, LUOY KAAYO SI LOLA SA IYANG PAGKAMATAY' ('Auntie, the death of Lola is very pitiable').

And then he continued telling me that during the first strike, the feet of the old woman was raised up; on the second strike his grandmother trembled or shivered.

So I immediately stood up and said: 'Boy, so you are the one who killed your Iola otherwise how would you know that her feet rose on the first strike and then she trembled on the second strike?'

Immediately Julio left the room and went towards the kitchen without answering me."[9]

It also appears that two (2) days before the incident, or on 18 October 1985, Julio Tenebro went to the store of Santos Baron to buy tuba. As Julio Tenebro was drinking the tuba, he said to Santos Baron:

"A This Boy Tenebro told me, 'Nong Santos, my lola will not live long anymore'.

Q What else did he say if he said anything more?

A He said: 'What I will use in killing her will be a 2 x 2 piece of wood to be struck at her forehead'.

Q What else did he say?

A And he also said: "That Berting Calatrava, his neck will be cut by a scythe." [10]

Julio Tenebro, however, denied that he killed his grandmother and Igmedio Ambat, Jr. He claimed that he was sleeping in his house, about one kilometer away from the house of his grandmother, on the night of 20 October 1985, together with his wife and children and came to know of his grandmother's death only in the morning of 21 October 1985, while he was gathering coconuts. He further claimed that he heard Ruben Bustamante tell the police investigators that he (Bustamante) killed the old woman and hid some money near the tractor. [11]

His claim was corroborated by Pat. Ismael Salvacion of the Kiamba police station, who testified that Ruben Bustamante admitted to him that he (Bustamante) killed Antonia Tenebro because the old woman always scolded him. [12]

The trial court, however, found the accused Julio Tenebro guilty of the crimes charged and sentenced him to suffer the penalties hereinbefore stated.

In this appeal, the accused Julio Tenebro assails the correctness of the court's decision, contending mainly that the said court erred in convicting him of the crimes of Murder and Parricide and in disregarding the testimony of witnesses supporting his claim that Ruben Bustamante is the real culprit.

To be sure, the issue of whether Ruben Bustamante or the accused Julio Tenebro is responsible for the deaths of Antonia Tenebro and Igmedio Ambat, Jr. involves the credibility of witnesses and we have repeatedly upheld the well established rule that the highest degree of respect is accorded to the findings of the trial court, the latter being in the position to observe the demeanor and manner of testifying of the witnesses, unless there is a showing that the trial court had overlooked certain facts of substance and weight that, if considered, might affect the result of the case. And where there is irreconcilable conflict in the testimonies for the prosecution and for the defense, as in the instant case, the appellate court will not disturb the findings of fact of the trial court when the evidence of the prevailing party is adequate to sustain the judgment appealed from. [13]

We have made a thorough and careful study of the record of these cases, and we find no cogent reason to disturb the findings and conclusion of the trial court that the accused Julio Tenebro is guilty of the crimes charged. The trial court found that the testimony of the prosecution witnesses "are not only congruous and consistent but credible and straight forward" whereas the defendant's alibi "was so weak that it can not impair and much less shall prevail over the positive testimony of the prosecution witnesses who identified him as the very person who killed the deceased in the evening of 20 October 1985." [14]

It is not also shown that the witnesses for the prosecution had improper motives to testify falsely against the accused. The prosecution witness Luciana Calatrava is a very close relative of the appellant, being the sister of the appellant's father. She would not have testified against the accused if her testimony were not true.

The trial court was correct in rejecting the alibi of the accused. It is well settled that alibi cannot prevail over the positive testimony of the prosecution witnesses and their clear identification of the accused as the perpetrator of the crimes. This is so because alibi is a defense that is inherently weak as it can be easily fabricated or concocted. [15] Besides, to establish an alibi, the accused must show that it was impossible for him to have been at the scene of the crime at the time of its commission. In the instant cases, the accused declared that his house was only a kilometer away from the house where his grandmother, Antonia Tenebro, lived, [16] so that it was not impossible for him to be at the house of his grandmother when the crimes were committed.

The trial court did not also commit error in rejecting the appellant's claim that Ruben Bustamante is the real culprit. The reasons advanced by him to support his submission are not based upon convincing evidence. Thus, the appellant claims that Ruben Bustamante admitted to one Pat. Ismael Salvacion that he killed Antonia Tenebro

because the old woman always scolded him. However, the veracity of this statement is dubious. According to Pat. Salvacion, the admission of guilt was made to him on 24 October 1985, while Ruben Bustamante was detained at the Kiamba police station.[17] If this admission of guilt was in fact made, it would have been natural for the said Pat. Salvacion to put his statement in writing in view of his sworn duty to uphold the law, and the fact that Julio Tenebro is his friend.[18] But, Pat. Salvacion failed to put down the alleged statement in writing and he did not offer any plausible explanation why he did not do so. Besides, Ruben Bustamante declared that he did not know a policeman named Salvacion.[19]

At any rate, this alleged admission of guilt to Pat. Salvacion appears to be an after-thought. In the motion for the reinvestigation of the cases, filed by appellant's counsel on 15 January 1986, no mention was made of an admission to Pat. Ismael Salvacion. The ground relied upon by the appellant's counsel in said motion was that Ruben Bustamante had allegedly signed a written confession in the presence of Pat. Romeo Atuel and Pat. Daligdig.[20]

The appellant insists that Ruben Bustamante is the person responsible for the deaths of Antonia Tenebro because he was seen wearing the new Adidas shorts of Igmedio Ambat, Jr. when he was apprehended in the morning of 21 October 1985.

This fact, however, has been satisfactorily explained. Ruben Bustamante declared that the said shorts were given to him by Igmedio Ambat, Jr. in payment of a debt. His testimony reads:

“Q The truth of the matter Mr. Bustamante is you were wearing a new Adidas short pants, is it not, when you arrived at the house of Antonia Tenebro?

A Yes sir, because this Igmedio Ambat owed me something and so he just paid me with an Adidas pants his indebtedness.”[21]

The explanation is plausible and is in accord with human behavior.

The appellant further claims that Ruben Bustamante had told Pat. Atuel that he (Bustamante) took P4,000.00 from Antonia Tenebro which he hid near a tractor.

This claim, however, is ambiguous. The testimony of Pat. Romeo Atuel reads, as follows:

"FISCAL AMPIG:

“Q Patrolman Atuel, you mentioned about the Four Thousand Pesos (P4,000.00) in the cross examination. Now, who told you about this P4,000.00 which was supposedly taken from the house of the victim, Antonia Tenebro?

A Ruben Bustamante.

Q When did he tell you that?

A During the time when he said that they got that amount from the house of Antonia Tenebro together with Julio Tenebro.

Q And the amount was never recovered?

A No, sir.

FISCAL AMPIG:

That will be all Your Honor.

COURT:

Q Who got hold of the Four Thousand (P4,000.00) Pesos?

Q And he never surrendered that to the police?

A No, Your Honor."^[22]

While Bustamante may have told Pat. Atuel that some amount of money was taken from the house of Antonia Tenebro, it is not clear that it was Bustamante who took the money.

One other reason advanced by the appellant in support of his claim that Ruben Bustamante is the real culprit, is that Ruben Bustamante left, very early in the morning of 21 October 1985, for Lomoyon, about two (2) kilometers away, on foot, without waiting for a jeep which is usually available at 8:00 o'clock in the morning,.

The fact that Bustamante went to Lomoyon on foot, without waiting for a jeep to take him there, cannot be considered as flight indicative of guilt. The distance was short and Bustamante may have wanted to save the money intended for his fare. Anyway, if he wanted to hide, he would not have gone to a very near place where he could be easily found.

The appellant also claims that Bustamante killed Antonia Tenebro because the latter had previously charged Bustamante with theft of P500.00.

Hipolito Nunag, Sr., the barrio captain of Katubao, Kiamba, South Cotabato, declared that sometime in the early part of 1985, the late Antonia Tenebro complained to him that Bustamante had stolen some money from her. However, he said that he referred the complaint to the barangay captain of Lomoyon, where Bustamante was made to sign a promissory note after which he was forgiven by Antonia Tenebro. His testimony reads, as follows:

"Q You said that the late Mrs. Antonia Tenebro once complained to you that Ruben Bustamante stole some money from the old woman. When was this?

A That was in the early part of 1985.

Q What happened to that complaint?

A I submitted it to the adjacent barangay captain of Lomoyon.

Q Do you know what happened to the case before the barangay captain of the adjacent barrio in Lomoyon?

A Yes, sir.

Q What happened?

A He was made to sign a promissory note admitting that he stole the amount and a date was set for his payment.

Q When was that if you know?

A This was in the early part of 1985.

Q After that did not Ruben Bustamante go on working with the old woman?

A Yes sir, because the old woman took him back.

Q In other words everything was forgiven?

A Maybe.

Q And perhaps as a barangay captain you can say that the relationship between the two were already already? (sic)

A Maybe.

Q Your answer is maybe sir and this is because you did not observe any untoward incident between the old woman and Ruben Bustamante after that Five Hundred Pesos (P500.00) incident?

A Yes, sir."[23]

Since Bustamante had been forgiven by Antonia Tenebro and taken back to her good graces, the complaint lodged before Hipolito Nunag, Sr. could not have motivated Bustamante into killing Antonia Tenebro and Igmedio Ambat, Jr.

WHEREFORE, the judgment of conviction is hereby AFFIRMED. However, the indemnity to be paid to the heirs of the victims is hereby increased to P50,000.00 in each case, in line with recent decisions of the Court. Costs against the appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Original Record, p. 1

[2] Id., p. 3

[3] Id., pp. 43, 44

[4] Exhibit B

[5] Exhibit C

[6] Exhibits B-1 and C-1

[7] tsn of July 28, 1985, p. 297; tsn of July 18, 1986, pp. 154-155

[8] tsn of June 9, 1986, pp. 6-16

[9] tsn of July 22, 1986, p. 196

[10] tsn of June 10, 1986, pp. 85-86

[11] tsn of September 5, 1987, pp. 317-319, 323-328, 351

[12] tsn of October 14, 1986, pp. 229-231

[13] People vs. Tila-on, 112 Phil. 546

[14] Decision, pp. 5-6

[15] People vs. Abigan, G.R. No. 69674, September 15, 1986, 144 SCRA 130 and cases cited therein.

[16] tsn of November 25, 1987, p. 348

[17] tsn of October 14, 1986, p. 229

[18] Id., p. 235

[19] tsn of June 10, 1986, pp. 58-59

[20] Original Record, pp. 37-38

[21] tsn of June 10, 1986, p. 52

[22] tsn of July 17, 1986, pp. 140-141

[23] tsn of October 14, 1986, pp. 255-257

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