

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE LEGASPI Y RAMIREZ, CRESENCIO PALACIO Y PERMEJO, NESTOR TARUC Y AGABAO, LITO RODRIGUEZ Y TAN, TEODY PAMELA Y MADRIAGA, AND...

G.R. Nos. 92167-68. July 14, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is an appeal from the consolidated Decision of the Regional Trial Court, Branch 124, Kalookan City, in Criminal Case No. C-28760 (87) for double murder and Criminal Case No. C-28761 (87) for violation of Republic Act No. 6539 (Anti-Carnapping Act), finding appellants guilty beyond reasonable doubt of robbery with double homicide.

I

The information in Criminal Case No. 28760 (87), charging the accused with double murder, reads as follows:

"That on or about the 7th day of January, 1987 in Caloocan City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with treachery and evident premeditation and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously hogtie and stab the persons of RONALDO ABALES Y LEONES and ARIEL HELOMA y AYALA, thereby inflicting upon said victims serious physical injuries which injuries caused their death" (Rollo, p. 6).

The information in Criminal Case No. 28761 (87), charging the accused with violation of R.A. No. 6539, reads as follows:

"That on or about the 7th day of January, 1987, in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with intent to gain and without the knowledge and consent of one JOSE ABALES Y DIRAIN, the owner thereof, did then and there wilfully, unlawfully and feloniously take, carry and drive away one (1) PUJ type jeepney bearing Plate No. PGY 381, belonging to said JOSE ABALES Y DIRAIN, to his damage and prejudice" (Rollo, p. 7).

Upon arraignment, the accused pleaded not guilty to the charges. The cases were jointly tried and after trial, the court rendered a consolidated decision, the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, this Court finds the accused JOSE LEGASPI y RAMIREZ, CRESENCIO PALACIO y PERMEJO, NESTOR TARUS (sic) y AGABAO, LITO RODRIGUEZ y TAN, TEODY PAMELA y MADRIAGA and MANUEL TORRES y GUTIERREZ guilty beyond reasonable doubt of robbery with double homicide as defined and penalized under paragraph 1, Article 294 of the Revised Penal Code, as amended, and taking into consideration [the] presence of one aggravating circumstance without the

attendance of any mitigating circumstance, hereby sentences each of the accused to suffer imprisonment of reclusion perpetua. The accused are hereby directed to jointly and severally indemnify the heirs of Ronaldo Abales the amount of P30,000.00; to jointly and severally indemnify the heirs of Ariel Heloma the amount of P30,000.00. The accused are likewise directed to pay the costs.

"Each of the accused shall be credited in the service of his sentence with the full time he has undergone preventive imprisonment pursuant to Article 29 of the Revised Penal Code, as amended, provided the conditions prescribed therein have been complied with" (Rollo, pp. 44-45).

II

The findings of fact of the trial court are as follows:

Jose Abales owned a passenger jeepney with Plate No. PGY-381. On January 7, 1987, his son, Ronaldo, drove the jeepney to service the Novaliches-Bagong Silang route in Kalookan City. Ronaldo was accompanied by Ariel Heloma, as conductor. At around 9:45 p.m., Dominico Mirasol, a friend of Ronaldo, rode the jeepney.

While the jeepney was waiting for passengers, appellant Teody Pamela approached Ronaldo and offered to hire said jeepney. Thereafter, appellant Pamela, together with accused Manuel Torres and Cresencio Palacio, boarded the jeepney. Mirasol alighted before the jeepney reached its terminal. At that time, there were about seven other passengers, including appellants, Torres and Palacio.

When Ronaldo failed to go home that night, Jose Abales started a search for him. At about 2:30 a.m. of the following day, a patrol of the San Jose City police noticed a jeepney parked along the shoulder of the road. Suddenly, the jeepney started and sped away. A chase ensued and two gunshots were fired from the direction of the vehicle. Notwithstanding the warning shots fired by the police, the jeepney refused to stop. The police then radioed their headquarters for assistance. A road block was placed along the route of the jeepney, forcing it to stop. Appellants, Torres and Palacio were then placed under arrest.

The jeepney was that owned by Jose Abales. The police recovered from it a .38 caliber paltik, a 10.5-inch dagger (Exh. "G") with blood stains and a hand grenade. The driver's license of Ronaldo Abales (Exh. "H") was found in the possession of Torres.

The bodies of Ronaldo Abales and Ariel Heloma were found that morning in Camarin, Kalookan City. Abales had a single stab wound while Heloma suffered multiple stab wounds. Both their hands were tied behind them.

Dr. Rodolfo Lezondra, a medico-legal officer of the National Bureau of Investigation, conducted the autopsy. In his reports (Exhs. "P" and "T"), he concluded that Abales and Heloma died of hemorrhage, secondary to stab wounds which could have been caused by a single bladed weapon.

After trial, the court a quo convicted all the accused.

Hence, this appeal.

III

Appellants gave the following version of the incident: In the afternoon of January 7, 1987, appellants Legaspi, Taruc and Rodriguez were drinking with Manuel Torres. They were later joined by appellant Pamela and Cresencio Palacio. The drinking spree lasted until 9:00 p.m., when Torres and Palacio left to buy more liquor.

The two returned aboard a passenger jeepney driven by Torres, who claimed that he found said jeepney parked at a corner with its key left in the ignition. He decided to use it in order to bring home his companions. Instead of

taking their companions home, appellants, Torres and Palacio proceeded to Nueva Vizcaya to buy some tires. Along the way, they were flagged down by a drunken policeman whom they ignored. They continued until they reached a roadblock and were forced to stop. Appellants, Torres and Palacio were brought to the city jail, where they were mauled separately. Torres claimed that he was coerced into signing a confession, where he admitted to forcibly taking the jeepney.

Appellants denied the charges filed against them. They contended that they were merely passengers of the jeepney driven by Torres and acceded to his invitation to go sight-seeing in Nueva Vizcaya.

Appellant Legaspi argued that he was deprived of his constitutional rights during the custodial investigation. On the other hand, appellant Pamela questioned his conviction of robbery with double homicide.

All the appellants claimed that the trial court erred in finding a conspiracy to commit the complex crime of robbery with double homicide and in convicting them merely on the basis of circumstantial evidence.

Pending the appeal, Palacio and Torres withdrew their appeal (Rollo, p. 202).

Subsequently, Torres and Palacio executed a joint affidavit dated August 14, 1991, where they admitted in conspiring to "carnap" the jeepney with appellants Rodriguez and Pamela. In their affidavit they pointed to appellants Rodriguez and Pamela as the ones who decided to kill Abales and Heloma. They exculpated appellants Legaspi and Taruc, whom they just met on the road. As to the delay in the making of their affidavits, the two affiants claimed that they were threatened by appellants Rodriguez and Pamela (Rollo, p. 253).

IV

We see no reason to depart from the findings of fact of the trial court, whose evaluation of the evidence is accorded respect (*People v. Apolonia*, 235 SCRA 124 [1994]).

Appellants' conviction is based on: (1) the positive testimony of Dominico Mirasol, who saw appellants Pamela, Legaspi and Rodriguez board the passenger jeepney at around 9:45 p.m. of January 7, 1987; (2) the search of Jose Abales for his son and the jeepney at around 10:00 p.m. that same night; (3) the chase of the jeepney by the police; (4) the arrest of appellants, Torres and Palacio aboard the jeepney in San Jose City, Nueva Ecija at around 2:00 a.m. the following day; (5) the subsequent discovery of the bodies of Ronaldo Abales and Ariel Heloma at around 7:00 a.m, (6) the recovery of the blood stained dagger (Exh. "G"), paltik revolver and hand grenade from the jeepney; (7) the picture of appellants with the jeepney (Exh. "C") upon their arrest; and (8) the certificate of registration of the Bureau of Land Transportation (Exh. "A") and the corresponding receipt issued by the Land Transportation Commission (Exh. "B") showing that the jeepney was the one owned by Jose Abales.

The circumstantial evidence found by the trial court is sufficient to convict appellants. We may likewise add that appellants failed to provide any explanation to the following circumstances: (1) the recovery of the dagger (Exh. "G") stained with blood from the jeepney at the time of their arrest; and (2) Torres' possession of the driver's license of the deceased Ronaldo Abales (Exh. "H"). The requisites provided for in Section 4 of Rule 133 of the Revised Rules on Evidence regarding the sufficiency of circumstantial evidence have been complied with.

Appellants' defenses of denial and alibi are inherently weak especially when only appellants testified as to said defenses. The same rule applies even where conviction is based on circumstantial evidence (*People v. Apolonia*, *supra*).

Moreover, appellants insist that they could not have planned the crimes when they hardly knew each other. They claimed that they were mere acquaintances, with some of them having just met on that fateful day. However, their conduct of drinking together from the afternoon until evening and acceding to go "sightseeing" as far as Nueva

Vizcaya thereafter, notwithstanding their lack of money, is contrary to the common experience of "mere acquaintances."

Appellant Legaspi also claimed that he was denied his right to counsel during the custodial investigation. However, the trial court did not consider any evidence taken during the custodial investigation of appellants.

Even appellants' allegations of physical abuse during their custodial investigation cannot hold water. Appellants claimed that they took repeated beatings from the San Jose City policemen. This allegation is, however, belied by their photograph with the seized passenger jeepney (Exh. "C") taken a few hours after their investigation. Said photograph failed to show any trace of abuse on their bodies.

The belated joint affidavit of Torres and Palacio, which absolved appellants Legaspi and Taruc from any participation in the crimes, deserves no consideration.

Be that as it may, we find merit in appellant Pamela's assertion that they were wrongly convicted of the special complex crime of robbery with double homicide.

Appellants were charged with two separate informations, one for double murder (Criminal Case No. C-28760 [87]) and the other for violation of R.A. No. 6539 (Criminal Case No. C-28761 [87]). Their conviction can only be limited to the crime alleged or necessarily included in the allegations in the separate informations. What controls is the description of the offense, as alleged in the information (*Santos v. People*, 181 SCRA 487 [1990]). While the trial court can hold a joint trial of two or more criminal cases and can render a consolidated decision, it cannot convict the accused of a complex crime constitutive of the various crimes alleged in the two informations. Thus, the accused were deprived of their constitutional right to be informed of the nature and cause of the accusation against them (1987 Constitution, Art. III, Sec.14[2]).

WHEREFORE, the Decision appealed from is **AFFIRMED** with the **MODIFICATION** that appellants are found guilty of: (1) double murder and sentenced to suffer imprisonment of reclusion perpetua; and (2) violation of R.A. No. 6539 and sentenced to suffer life imprisonment. They are directed to jointly and severally indemnify the heirs of Ronaldo Abales and the heirs of Ariel Heloma the amount of P50,000.00 each.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Bellosillo, J., on leave.

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