

FIRST DIVISION

[G.R. NO. 176267, September 03, 2007]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANDY ALABADO Y DAVID, ACCUSED-APPELLANT.

D E C I S I O N

GARCIA, J.:

On May 16, 2000, in the Regional Trial Court of Mandaluyong City, two separate Informations — one for Murder and the other for Frustrated Murder — were filed against herein appellant Randy Alabado y David. Respectively docketed in the said court as Criminal Cases No. MC-00-2508-H and No. MC-00-2509, both of which were raffled to Branch 24 thereof, the corresponding information alleges as follows:

In Criminal Case No. MC-00-2508-H:

That on or about the 10th day of May, 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a stainless kitchen knife, with intent to kill, evident premeditation and treachery, did, then and there willfully, unlawfully and feloniously stab with the said knife one RICARDO AMPAYA Y MATEO alias "Totoy" on the (sic) different parts of his body, thereby inflicting upon the latter mortal wounds which directly caused his death.

CONTRARY TO LAW.^[1]

In Criminal Case No. MC-00-2509:

That on or about the 10th day of May, 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a stainless kitchen knife, with intent to kill, evident premeditation and treachery, did, then and there willfully, unlawfully and feloniously attack, assault and stab with the said knife one EVELYN AMPAYA Y DIZON on the (sic) different parts of her body, thereby inflicting upon the latter injuries which would ordinarily cause his (sic) death, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of cause or causes, independent of the will of the accused, that is, due to the timely and able medical attendance rendered to said EVELYN AMPAYA Y DIZON which prevented his (sic) death.

CONTRARY TO LAW.^[2]

When arraigned with assistance of counsel, accused-appellant entered a common plea of "Not Guilty" in both cases. Thereafter a joint trial ensued.

On August 4, 2003, the trial court rendered its Joint Decision^[3] in the two cases, the dispositive portion of which reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt he is hereby sentenced as follows:

(a) In Criminal Case No. MC-00-2508-H, accused shall suffer the penalty of RECLUSION PERPETUA, to pay the heirs of Ricardo Ampaya the amount of P25,000.00 as actual damages, P50,000.00 as death indemnity, P50,000.00 as moral damages and P20,000.00 as exemplary damages; and,

(b) In Criminal Case No. MC-00-2509, accused shall suffer the penalty of NINE (9) YEARS of prision mayor as minimum to FIFTEEN (15) YEARS of reclusion temporal medium as maximum and to pay the amount of P13,560.55 as actual damages.

SO ORDERED.

On appeal to the Court of Appeals (CA), whereat the recourse was docketed as CA-G.R. CR No. 00457, the appellate court, in its decision^[4] of April 17, 2006, affirmed the trial court's judgment of conviction with modifications, disposing as follows:

1. In Criminal Case No. MC-00-2508-H, accused-appellant Randy Alabado y David is found **GUILTY** beyond reasonable doubt of murder under Article 248 of the Revised Penal Code, qualified by treachery, and is sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay the heirs of the victim Ricardo Ampaya, the amounts of P25,000.00 as actual damages, P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages; and
2. In Criminal Case No. MC-00-2509, accused-appellant Randy Alabado y David is found **GUILTY** beyond reasonable doubt of frustrated murder under Article 248 in relation to Article 6, first paragraph of the Revised Penal Code and is hereby sentenced to suffer an indeterminate penalty of nine (9) years of *prision mayor*, as minimum, to fifteen (15) years of *reclusion temporal*, as maximum. Accused-appellant is further ordered to pay the victim Evelyn Ampaya the amount of P40,000.00 as moral damages and P25,000.00 as temperate damages.

SO ORDERED.

Before us now in this petition for review, appellant questions the appellate court's decision, assigning the following errors in his quest for a reversal:

I

THE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO THE

TESTIMONIES OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY AND IN FAILING TO CONSIDER INTOXICATION AS A MITIGATING CIRCUMSTANCE.

As the Court sees it, the main issue raised in this recourse is: Was appellant sufficiently and positively identified by the prosecution witnesses as the perpetrator of the gruesome crimes?

It has been said that the identity of the accused is the first duty of the prosecution. [5] At the outset, we state that the prosecution had discharged the burden of identification.

As synthesized in the challenged decision of the appellate court, the prosecution's evidence tends to establish the following:

x x x May 10, 2000 was the birthday of Aries Ampaya and the entire Ampaya family was very busy the whole day preparing the foods and attending to their guests. The celebration continued until evening wherein Aries Ampaya held a drinking session with his relatives, friends, co-workers and their boarders at the terrace of their boarding house which is just beside the house where their family lives at 1025 Barangay Barangka Itaas, Mandaluyong City. Randy Alabado, one of the boarders of the Ampaya, was also present. In fact[,] he did errands for the group like preparing and getting their "pulutan." xxx About past 11:00 o'clock in the evening, Randy Alabado left the group unnoticed xxx. Few minutes later, the sound of music coming from the stereo system in the main house xxx suddenly went off and after a while it went on again. This thing happened for sometime until Arnel, the brother-in-law of Aries Ampaya, came out of the main house terrified and shouting. Immediately, those who were drinking left their places and went inside the house of the Ampayas. Aurelio Torres, Jr. and Jam Rolando Tendencia, were among those who went in and when they reached the second floor, they saw Randy Alabado holding a knife while Edgar Ampaya was wrestling with him for the possession of the same. They helped Edgar and succeeded in taking the knife from Randy.

Unknown to them and even before Arnel went out, a terrible thing had already happened inside the house. According to Evelyn Ampaya[,] she was then already asleep when she suddenly woke up and noticed a man with his head bowed down seating (sic) on the headboard of the bed which she shared with her younger sister Joy xxx . Since the room was only being illuminated by the light from the living room and from the aquarium beside her window[,] she could not readily identify the person. Evelyn then stood up from her bed and went closer to the person and looked [at] him intently, and it was only then that she recognized him as Randy Alabado. She became terrified because he was holding a knife. Instinctively, she immediately got up from bed and ran to the living room but Randy chased her (sic) and caught up with her outside her room

where he suddenly embraced and kissed her in the nape. She called the help of her father Ricardo Ampaya who was already asleep in his room but accused did not mind her xxx. Evelyn repeated her plea for help from her father and this prompted the accused to stab her several times hitting her on the chin, eyebrow, back, stomach, thigh and arms as she was parrying his stab blows. It was at this juncture that [Ricardo] came out from his room and rushed towards her xxx. She recalled her father shouting, "Randy, bakit mo ginaganyan ang anak ko." But Randy turned towards Ricardo and met him with a fatal stab blow on the chest rendering the victim immobilized which he followed up with several more stab blows (TSN, pp. 5-10, October 5, 2000).

Edgar Ampaya who was also sleeping at that time was awakened by a loud thud coming from the hallway xxx. He went out of his room xxx and he saw Randy Ampaya stabbing his father who was already slumped on the floor with his face down. Since he was behind Randy who was then on a bending downward forward position towards the fallen body of his father, Edgar immediately rushed to him, pulled him away from his father and wrestled with him for the possession of the knife. It was then when their neighbors and visitors arrived and helped them in pinning down the accused (TSN, pp. 3-7, May 22, 2001).

Immediately, Ricardo Ampaya and Evelyn Ampaya were rushed to the Mandaluyong Medical Center xxx. On the other hand, Randy (sic) Alabado was being held by Jam Rolando Tendencia and the barangay tanods. Ricardo Ampaya xxx died upon reaching the hospital while Evelyn Ampaya was attended by Dr. Jesus Quitillan.^[6]

The rest of the prosecution's evidence are summed up in the Joint Decision of the trial court, thus:

Dr. Felimon Porciuncula, Jr., a medico-legal officer of the PNP Crime Laboratory xxx, made his own autopsy of Ricardo's remains on May 11, 2000. He executed Medico-Legal Report No. M-310-00 (Exh. B) xxx He concluded that the cause of the victim's death was hemorrhagic shock as [the] xxx result of multiple stab wounds on the trunk. xxx He opined that these wounds were caused by a single bladed knife (TSN, pp. 2-18, August 24, 2000).

In the medical certificate (Exh. U) issued by Dr. Jesus Quitillan[,] he stated that he treated Evelyn Ampaya who was confined at the Mandaluyong Medical Center from May 11, 2000 to June 14, 2000. She sustained 13 stabbed (sic) wounds and 2 lacerated wounds xxx and these wounds would heal in 60 days barring complications. Since Dr. Quitillan xxx is now abroad the prosecution called Dr. Guillermo Amigo, Jr., xxx. He opined that the stabbed (sic) wounds were caused by a pointed bladed instrument and taking into account the extent and nature of the wounds which were fatal the victim would die. xxx (TSN, pp. 3-18, August 7, 2002).

Dr. Norlito Sibug, an eye-specialist and ophthalmologist of the Mandaluyong Medical Center[,] also treated the injuries sustained by the

victim on her right eye-brow and right eye. Based on his examination and ultrasound the victim lost her vision on her right eye because of a scar on the back of the same caused by severe bleeding due to injury (TSN, pp. 2-15, August 7, 2002).

Virginia Ampaya, wife of the deceased, was saddened by the untimely death of her husband. She incurred expenses amounting to P35,000.00 for the 7 day-wake and burial but she had only a receipt for P25,000.00 (Exh. O-1). She is asking for a P500,000.00 moral damages.

Evelyn Ampaya estimated her expenses including her damages in the amount of P150,160.00 (Exh. V). However, she was able to present only a receipt for P13,560.55 (Exhs. V-1 to V-73).

SPO Rafael Ranot, a police investigator of the Mandaluyong Police Station xxx undertook an investigation on the stabbing to death of Ricardo Ampaya and the wounding of Evelyn Ampaya. He went to the hospital immediately when he received the incident report xxx. He took the statement of Edgar Ampaya, Jam Rolando Tendencia, Aurelio Torres, Jr., and Evelyn Ampaya at her hospital bed. xxx. (TSN, pp. 2-10, July 3, 2001).^[7]

For its part, the defense adduced in evidence the lone testimony of appellant himself.

Appellant testified that on May 10, 2000, he was at the house that he and his siblings were, for the past six years, renting from the Ampayas located just beside the Ampayas' home at 1025 MRT Track, Barangka Itaas, Mandaluyong City.^[8] He claimed that around 6:30 p.m. of that fateful day, Aries Ampaya invited him to his (Aries') birthday party at the Ampayas' home where the guests were having a drinking session. At the kitchen of the Ampaya home, he helped out in the preparation of the *pulutan* (appetizer), in the course of which - so appellant claimed - he suddenly felt groggy and a change of body temperature. He began pacing back and forth. He recalled going to the sala where he sat for a while. It was during that time, so appellant continued, that he felt being hit on the head, whereupon he no longer had any recollection of succeeding events.^[9] When he regained consciousness, he was already at the Criminal Investigation Division of the Mandaluyong Police Station. He admitted to having had too much to drink that night, albiet he was no longer into heavy drinking since 1998.^[10]

In amplification of his first assigned error, appellant contends, in relation to his defense of denial, that the prosecution has not proved with moral certainty that it was he who committed the gruesome acts. He makes capital of the alleged conditions prevailing at the time that the crimes were committed, theorizing that, from Evelyn's own testimony that the main lights in her room (at around 11:45 p.m.) were out at the time and the only sources of illumination were those that came from the lighted aquarium beside the room window and some light filtering into the room from the sala, it would have been very difficult for Evelyn to have identified him as the "male seated at the headboard of the bed beside the bed occupied by her and her sister at the time,"^[11] as the one who chased and attacked her moments later. Appellant thus argues: