

THIRD DIVISION

[G.R. No. 208114, October 03, 2018]

**MELKY CONCHA AND ROMEO MANAGUELOD, PETITIONERS, V.
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

LEONEN, J.:

An out-of-court identification such as a police show-up is inadmissible if it is tainted with improper suggestions by police officers.

This is a Petition for Review on Certiorari^[1] under Rule 45 of the 1997 Rules of Civil Procedure, praying that the January 31, 2013 Decision^[2] and the July 5, 2013 Resolution^[3] of the Court of Appeals in CA-G.R. CR No. 33806 be reversed and set aside.^[4] The Court of Appeals affirmed the 2010 Joint Decision^[5] of the Regional Trial Court of Cabagan, Isabela, finding Melky Concha (Concha) and Romeo Managuelod (Managuelod) guilty beyond reasonable doubt of the crime of carnapping.^[6]

The Office of the Provincial Prosecutor of Isabela filed two (2) criminal Informations against Marlon Caliguiran (Caliguiran),^[7] Alvin Tamang,^[8] Concha, and Managuelod, charging them with two (2) counts of carnapping under Republic Act No. 6539 or the Anti-Carnapping Act of 1972.^[9] Both Informations, docketed as Criminal Case Nos. 22-2219 and 22-2220, were stated exactly as follows:

That on or about the 15th day of February, 2006, in the municipality of Tumauini, Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, conspiring, confeder[at]ing together and helping one another, armed with assorted firearms, and by means of force and intimidation, that is by pointing their firearms towards Michael Macutay who was the driver and in possession of a Honda Wave 100 cc motorcycle owned by one Eugenio Cacho, and at gunpoint, did then and there, willfully and feloniously, take, steal and bring away the said Honda Wave 100 cc motorcycle bearing Plate No. BI-8085 valued at PhP 44,000.00 against the will and consent to (sic) the said Mic[ha]el Macutay, to the damage and prejudice of the said owner, in the aforesaid amount of PhP 44,000.00.^[10]

On January 21, 2009, Concha and Managuelod were arraigned and both pleaded not guilty. Thereafter, trial ensued.^[11]

The prosecution presented Michael Macutay (Macutay), Eugenio Cacho (Cacho), and SPO4 Juan C. Anapi (SPO4 Anapi) as its witnesses, whose testimonies corroborated as follows:^[12]

A Honda Wave motorcycle with plate number BI-8085 owned by Cacho was forcibly taken by the four (4) accused from his nephew, Macutay, who was then driving it. The prosecution narrated that on February 15, 2006, Macutay parked the passenger van owned by one Aileen Cacho at Cacho's house in Centro, Tumauni. Cacho thereafter lent the motorcycle with sidecar to Macutay to go home to Liwanag, Tumauni. Macutay drove the motorcycle, while his uncle, Junior, and his cousins, Jayson and Jake, were aboard the sidecar.^[13]

At about 11:00 p.m., as Macutay's group was traversing the road between Lallauanan and Liwanag, the motorcycle had a flat tire. The group decided to push the motorcycle. While doing so, they chanced upon a parked white car on the highway. As they got near the car, four (4) armed persons emerged from it and one of them pointed a gun at Macutay and declared "holdup." The armed men then took his Seiko watch, t-shirt, and wallet, which contained P400.00 in cash and his license. They told Macutay to run. When Macutay was near the edge of the road, he jumped. Macutay and his group then hid as the armed men took his motorcycle and left the sidecar behind. One of the armed men drove the motorcycle while the others returned to the white car and left.^[14]

Subsequently, around 1:00 a.m. or 2:00 a.m. of February 16, 2006, Macutay reported the incident to the Philippine National Police stationed at Tumauni. Macutay and the police went to the location of the incident. He showed them where the motorcycle was taken, their positions when it was taken, and the place where he jumped.^[15]

On February 20, 2006, the Tumauni police received information from the police station at Cabagan, Isabela that they had recovered a white Mitsubishi Lancer with plate number PYT 415. Tumauni police SPO4 Anapi went to Cabagan to inspect and verify the white car since he had been previously informed that a white car was missing. Upon arrival, SPO4 Anapi asked permission from Chief of Police Juancho Alobba (Chief Alobba) of the Cabagan Police Station to open the white car. Chief Alobba gave his consent. When SPO4 Anapi opened the car's trunk, he and Chief Alobba discovered Plate No. BI-8085, the plate of Cacho's Honda Wave motorcycle. This discovery was also witnessed by a certain PO3 Bautista, a certain PO1 Albano, a certain Police Officer Paguirigan, and other police officers; and also by Macutay and a person named Arnold Balabbo (Balabbo).^[16]

On February 21, 2006, the Tumauni police proceeded to Macutay's house in Liwanag and asked him to accompany them to Cabagan Police Station to identify the persons suspected to be responsible for the crime.^[17] At the police station, the police presented to Macutay five (5) persons^[18] that they had apprehended. Macutay pointed to Managuelod, Concha, and Caliguiran as the persons who robbed him. He claimed that Managuelod was the one who declared "holdup" and drove the motorcycle, while Concha wore the t-shirt they got from him.^[19]

On the other hand, the defense presented Concha and Managuelod as its witnesses.^[20]

Concha testified that on February 19, 2006, at around 10:00 a.m., he was walking alone on his way home from the field when police officers in a van stopped him near a bridge at the highway. They told him to board the van and invited him to Cabagan Police Station. On the way to Cabagan, they met some Tumauni police officers.

When they reached Cabagan Police Station, they locked him inside a cell and intimidated him to sign a document. Despite not knowing what was written in the document, he signed it for fear that the police would pour hot water on him. After a few minutes, the police also detained Managuelod in the cell. From February 19, 2006 to February 22, 2006, Concha was detained at Cabagan Police Station. On February 22, 2006, Concha was transferred to the Provincial Jail. Concha claimed that he came to know Managuelod only when they were already detained at the Provincial Jail.^[21]

Concha denied involvement in the carnapping. He asserted that Macutay could not have identified him as he could not recall that Macutay went to Cabagan Police Station on February 21, 2006. Although he was detained for several days at the police station, he did not see Macutay on February 21, 2006. He added that aside from him and Managuelod, Caliguiran and Balabbo were likewise detained at Cabagan Police Station.^[22]

Meanwhile, Managuelod testified that on February 19, 2006, around 12:00 p.m., a certain Tumauni Police Officer Baquiran arrested him at his house in Balug, Tumauni, Isabela. At the time of his arrest, he was then helping his younger brother with farm work. He was invited by Police Officer Baquiran to go to Tumauni Police Station. However, he was brought to Cabagan Police Station instead, where he was detained from February 19, 2006 to February 21, 2006. He claimed that he did not know why he was locked up by the police. He alleged that SPO4 Anapi mauled him and boxed him each day of his incarceration. SPO4 Anapi allegedly hit him on the forehead with a vehicle plate when he was transferred to another cell. According to Managuelod, SPO4 Anapi asked him if he was the one who took the motorcycle.^[23] He answered, "I do not know that."^[24]

Managuelod also denied being involved in the crime. Like Concha, he averred that Macutay could not have identified him considering that "he did not see the person of Michael Macutay on February 21, 2006, when he was brought together with his companions to the Provincial Jail where they were detained."^[25]

On rebuttal, SPO4 Anapi denied striking Concha with the vehicle plate and mauling him. He likewise denied assaulting, boxing, or mauling Managuelod during the police lineup. He contended that Concha and Managuelod's allegations could not have happened since he was not inside the police station then and the police were trained to conduct investigations, not maul persons.^[26]

On November 10, 2010, the Regional Trial Court rendered a Joint Decision^[27] finding both Concha and Managuelod guilty beyond reasonable doubt of carnapping.^[28] Before going to the merits of the case, the Regional Trial Court noted that the two (2) criminal Informations were filed "against the same accused for the same alleged criminal act of taking away forcibl[y] the same subject matter property, a Honda Wave Motorcycle with Plate No. BI-8085."^[29] Thus, in view of the accused's right against double jeopardy, it dismissed Criminal Case No. 22-2220 and proceeded with Criminal Case No. 22-2219.^[30]

The Regional Trial Court did not give weight to the prosecution's evidence, Plate No. BI-8085, to the extent that it was offered to establish that the accused took the motorcycle. It held that the prosecution failed to prove that any or all of the accused

possessed Plate No. BI-8085 before it was discovered by the police in the trunk of the white Mitsubishi Lancer car. Since it was not established that the accused possessed the vehicle plate, the presumption that they took it or the vehicle to which the plate was appended did not arise.^[31]

Nonetheless, the Regional Trial Court found Concha and Managuelod guilty of carnapping based on Macutay's testimony.^[32] It held that Macutay "was able to identify the culprits who committed the robbery in the lineup at the Philippine National Police Station at Cabagan, Isabela."^[33] It stated:

Upon the testimony of the witness Michael Macutay, it is sufficiently proven that at about 11:00 o'clock in the evening of February 15, 2006, the accused Romeo Managuelod and Melky Concha, together with their companions Alvin Tamang and Romeo Caliguiran, held at gun point Michael Macutay and took away from the latter the Honda Wave Motorcycle of Eugenio Cacho which [was] valued at Forty[-]Five Thousand (PhP 45,000.00) Pesos. It is also shown that Romeo Managuelod pointed a gun at Michael Macutay into giving to Romeo Managuelod his Seiko 5 watch, T-shirt and wallet. The Court had carefully studied the testimony of Michael Macutay who himself witnessed the incident complained of and it is of the firm belief that the evidence [proffered] therein is credible evidence by reason of the natural, straightforward, spontaneous, consistent and frank manner in which the witness testified before the Court. In the view of [the] Court, Michael Macutay is a credible witness whose testimony is worthy of credence.^[34]

The Regional Trial Court also held that since the prosecution was able to prove that the value of the motorcycle was P44,000.00, Concha and Managuelod were liable to Eugenio for that amount.^[35]

The dispositive portion of the Regional Trial Court November 10, 2010 Joint Decision provided:

WHEREFORE, premises considered, the Court finds the accused Melky Concha and Romeo Managuelod **GUILTY** beyond reasonable doubt of the crime of Carnapping pursuant to Republic Act No. 6539 and accordingly sentences them to an indeterminate prison term of Eighteen (18) Years as minimum to Thirty (30) Years as maximum.

Additionally, the accused Melky Concha and Romeo Managuelod are hereby ordered to pay to Eugenio Cacho the amount of Forty[-]Four Thousand (PhP 44,000.00) Pesos, jointly and severally, by way of actual damage.

The case docketed as Criminal Case No. 22-2220 is hereby ordered dismissed on the ground of double jeopardy.

SO DECIDED.^[36] (Emphasis in the original)

On June 30, 2011, Concha and Managuelod filed an appeal^[37] before the Court of Appeals and prayed for the reversal of the Regional Trial Court November 10, 2010 Joint Decision.^[38] They argued that the out-of-court identification was not valid as it

was conducted through a police show-up, not a lineup, since only the four (4) suspects were presented to Macutay for identification.^[39]

On January 31, 2013, the Court of Appeals promulgated a Decision,^[40] affirming the Regional Trial Court November 10, 2010 Joint Decision.^[41] It held that, contrary to Concha and Managuelod's allegations, there was no impermissible suggestion when Macutay positively identified them in the police lineup. They were identified as the perpetrators since Macutay recognized them as part of the group that aimed a gun at him and coercively took the Honda Wave motorcycle.^[42] It stated:

Moreover, the Court has held that there is no law requiring a police line-up as essential to a proper identification. Even without a police line-up, there could still be a proper identification as long as the police did not suggest such identification to the witnesses. The records are bereft of any indication that the police suggested to Macutay to identify the accused-appellants as the carnappers.

Furthermore, Macutay's identification in open court of the appellants as the carnappers dispels any doubt as to their proper identification. We are satisfied that Macutay's testimony, by itself, is sufficient identification of the accused-appellants.^[43]

The Court of Appeals did not give merit to Concha's and Managuelod's defense of alibi considering that they did not present any testimonial or documentary evidence that could have corroborated their claims. Between their uncorroborated alibi and Macutay's positive identification, the Court of Appeals found the latter more credible.^[44]

Since the prosecution was able to establish the existence of all the elements of carnapping through the testimonies of its witnesses,^[45] the Court of Appeals ruled that the appeal before it should be dismissed. The dispositive portion of the Court of Appeals January 31, 2013 Decision provided:

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The challenged *joint decision* of the trial court in Criminal Case No. 22-2219 is hereby **AFFIRMED**.

Costs against the accused-appellants.

SO ORDERED.^[46] (Emphasis in the original)

On March 5, 2013, Concha and Managuelod moved for reconsideration,^[47] but it was denied by the Court of Appeals in its July 5, 2013 Resolution.^[48]

On July 30, 2013, Concha and Managuelod filed a Petition for Review^[49] before this Court, praying that the Court of Appeals January 31, 2013 Decision and the July 5, 2013 Resolution be reversed and set aside, and that a new one be rendered acquitting them of the crime charged.^[50] Respondent People of the Philippines, through the Office of the Solicitor General, filed its Comment^[51] on February 20, 2014, while petitioners filed their Reply^[52] on June 20, 2014.