

SECOND DIVISION

[G.R. NO. 163705, July 30, 2007]

**NOMER OCAMPO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

TINGA, J.:

On 22 May 1996, petitioner Nomer Ocampo, Elmer Miranda, and Danilo Cruz were charged with the crime of robbery with physical injuries. The Information reads:

That on or about the 14th day of November 1995, at around 8:15 o'clock in the evening, in Barangay San Nicolas I, Municipality of Magalang, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force and intimidation grab one Rommel Q. Misayah by the neck and armed with a bladed weapon attack the latter, inflicting upon him physical injuries which required and did require medical attendance, and on the occasion thereof, accused in furtherance of their intent to gain did then and there willfully, unlawfully and feloniously take, steal and carry away with them the following, to wit:

| | |
|-----------------------------|-----------|
| a) One (1) Icom radio . . . | P4,500.00 |
| b) Two (2) T-shirts . . . | 350.00 |
| c) A pair of maong pants . | 345.00 |
| . . . | |
| d) A clutch bag . . . | 150.00 |
| e) Cash . . . | 29,000.00 |

with a total value of THIRTY FOUR THOUSAND THREE HUNDRED FORTY FIVE (P34,345.00) PESOS, Philippine Currency, belonging to and owned by the said Rommel Q. Misayah, to the damage and prejudice of the owner, in the afore-said [sic] amount.

CONTRARY TO LAW.^[1]

Records show that there was an Amended Information^[2] dated 17 July 1996 changing the crime charged to Robbery with Violence and Intimidation against all of the accused–Ocampo, Cruz and Miranda. Arraignment ensued on 19 July 1996^[3] where all of the accused pleaded not guilty. Accused Cruz jumped bail during the pendency of the trial and was tried *in absentia*.^[4]

The prosecution presented and offered the testimony of Rommel Q. Misayah and

several documentary evidence.

Misayah testified that on 14 November 1995, at around 8:10 p.m., he was walking along San Nicolas Street on his way home when three male individuals approached him.^[5] As the place was sufficiently lighted by a nearby post, he was able to identify the trio as accused Cruz, Ocampo and Miranda. When the three accused were already near him, Cruz grabbed Misayah's neck and choked him while Miranda held his shoulder and got his shoulder bag.^[6] Ocampo meanwhile was in the middle, holding a knife, warning him not to fight back. Sensing that he would be harmed anyway, Misayah fought back by pushing the hands of the accused and trying to parry their blows. He and Cruz then fell on the ground with Cruz on top of him. When the handle of his shoulder bag snapped, all of the accused ran away with the shoulder bag.^[7]

By reason of the incident, Misayah sustained wounds in his hands caused by the bladed weapon held by Ocampo when he attempted to evade Ocampo's blows.^[8] The shoulder bag taken from Misayah contained the items enumerated in the aforementioned Information.

At the nearby Municipal Hall, Misayah reported the incident to Police Officers de Leon, Mon Mendoza, and Catalino Mutuc.^[9] Misayah was brought to Balitucan Emergency Hospital for treatment and thereafter proceeded to the precinct. After further investigation, he then executed a statement before Sr/Insp. Catalino Mutuc and SPO4 de Leon.^[10]

In their defense, accused Ocampo, Miranda, and another witness, Oliver Santos, gave their version of what happened that night.

Miranda testified that he was with Ocampo in the afternoon of 14 November 1995 to accompany the latter to borrow a wheelbarrow from a certain Lut Ocampo.^[11] Miranda and Ocampo played chess until 6:00 in the evening at Lut Ocampo's place while waiting for him to arrive. As they were leaving that place, they met Cruz. Instead of proceeding home, Ocampo invited Miranda for a drink at an establishment identified as "Irma's" and Cruz went along with them. That was already about 7:30 in the evening. While on their way to *Irma's*, Cruz and Misayah "bumped each other and had an altercation."^[12] Then Miranda informed his companions that he would go ahead. Miranda was about one yard away from Cruz and Misayah when he saw Cruz strangle Misayah. Claiming that he did not want to get into trouble, he did not pacify Cruz and Misayah. He hurriedly left and proceeded to Sally Feliciano's house and stayed there until 11:00 in the evening. As he was in a hurry to leave the incident where the altercation happened, he did not notice what happened to Ocampo.^[13]

Ocampo, on his behalf, testified that he knew Misayah who has a drug store in Magalang, Pampanga. At about 8:00 p.m. of 14 November 1995, he was walking with Miranda and Cruz on their way to *Vannie's* Restaurant when Cruz crossed the street and approached Misayah.^[14] Ocampo and Miranda continued walking when Ocampo saw Cruz choke Misayah and then have an exchange of fist blows. Ocampo and Miranda did not assist Cruz as it was only a brief fist fight. Ocampo saw Cruz run away while he and Miranda were left behind. Ocampo and Miranda saw Misayah

run towards the Municipal Hall and the two proceeded to their respective homes.^[15]

Defense witness Oliver Santos who knew the three accused testified that on the evening of 14 November 1995, he was at *Vannie's* videoke having a drinking spree with his friends. At 9:00 p.m., he asked leave from his friends to go ahead. While waiting for a motorcycle ride outside of *Vannie's* videoke, he saw Cruz and Misayah, whom he knew as the owner of a drug store, acting as if they were strangling each other. The fight took about a minute. He did not bother to do anything because he was afraid and also because fighting was a common incident in that area.^[16] Santos was somewhat inebriated when he witnessed the incident as he had consumed one (1) pitcher of draft beer. However, he still recognized the faces of Misayah and Cruz. On that occasion, he also saw Ocampo and Miranda walking towards the town proper.^[17]

All three accused were convicted by the trial court in a decision^[18] dated 31 May 2000, which held:

WHEREFORE, finding the three (3) accused, Danilo Cruz, Nomer Ocampo and Elmer Miranda @ Mitoy guilty beyond reasonable doubt of the crime of Robbery with Physical Injuries defined and penalized under Article 294 (5) of the Revised Penal Code, with the presence of an aggravating circumstance of conspiracy, they are hereby sentenced to suffer each an imprisonment in an indeterminate penalty of from [sic] eight (8) years to twenty one (21) days of *prision mayor*, as minimum, to ten (10) years of *prision mayor*, as maximum, and to indemnify the complainant Rommel Q. Misayah the amount of P34,345.00 without subsidiary imprisonment in case of insolvency.

SO ORDERED.

Ocampo and Miranda appealed their conviction to the Court of Appeals. However, in its decision^[19] dated 10 February 2004, the Court of Appeals affirmed with modification the trial court's decision, stating thus:

As to the penalty, the crime of robbery with violence against persons is penalized under par. 5, Article 294 of the Revised Penal Code by *prision correccional* maximum to *prision mayor* medium. Considering the attendant aggravating circumstance of abuse of superior strength (not conspiracy as ruled by the trial court), which is not offset by any mitigating circumstance, the penalty should be imposed in its maximum period, which is ***prision mayor*** medium or from eight (8) years and one (1) day to ten (10) years. Applying the Indeterminate Sentence Law, the minimum of the imposable penalty shall be the penalty next lower in degree which is ***arresto mayor*** maximum to ***prision correccional*** medium, in any of its periods, or from four (4) months and one (1) day to four (4) years and two (2) months. Thus, appellants should have been meted the indeterminate penalty of from [sic] 4 years and two months of ***prision correccional***, as minimum, to eight (8) years of ***prision mayor*** medium, as maximum.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellants are hereby sentenced

to suffer the indeterminate penalty of from [sic] four (4) years and two months of ***prision correccional***, as minimum to eight (8) years of ***prision mayor***, as maximum. Costs against appellants,

SO ORDERED.^[20]

Miranda did not challenge the affirmance of his conviction by the Court of Appeals. On the other hand, Ocampo filed a Motion for Reconsideration^[21] which was denied through a Resolution dated 20 May 2004.^[22] Ocampo alone then filed the present Petition for Review on Certiorari.^[23]

Ocampo argues that the appellate court erred in finding him criminally liable because: (i) Misayah's testimony was uncorroborated; (ii) it was unbelievable that Misayah would just walk on a slightly lighted street when he is carrying a considerable amount of cash and other items; (iii) there was no clear record that the prosecution presented any of the police officers who apprehended and investigated petitioner; (iv) the court failed to give credence to the testimony of Santos simply because he was tipsy; (v) although Misayah claimed that he had been grabbed by the neck, his medical certificate does not show any injury on the neck or on the arm to confirm if he was indeed held by Miranda on that part of his body; (vi) the examining doctor was not presented to confirm the authenticity of the issued medical certificate and to be cross-examined thereon; and (vii) it is very unlikely that Misayah's shoulder bag could accommodate all the items he claimed to have been contained therein. In sum, petitioner reiterates that the prosecution failed to prove that he is guilty beyond reasonable doubt of the crime for which he is being charged.

Before proceeding to the merits of this case, certain observations from the trial and appellate courts' decisions have to be clarified.

The initial information filed by the prosecution in this case designated the offense charged as Robbery with Physical Injuries.^[24] This was later amended to Robbery with Violence and Intimidation.^[25] Yet, the trial court's decision convicted the accused of Robbery with Physical Injuries under Article 294 (5) of the Revised Penal Code. The appellate court, on the other hand, affirmed the conviction under Article 294 (5) but classified the crime as robbery with violence against persons.

The variance in the assigned nomenclatures may give rise to the false impression that robbery with physical injuries under Article 294 (5) of the Revised Penal Code is distinct from robbery with intimidation as well as robbery with violence against persons. The title or heading of Article 294 reads "Robbery with violence against or intimidation of persons." Said heading is clearly the general nomenclature given to all five (5) types of robbery enumerated thereunder.^[26] Paragraphs 2 to 5 cover robbery with physical injuries.^[27] Paragraph 5, in particular, defines what is known as simple robbery. Simple robbery involves only slight or less serious physical injuries.^[28] For conviction under this paragraph, the injury inflicted should not fall within the categories provided for in paragraphs 1 to 4 of Article 294. Thus, over and above the dichotomy of the terms employed, it is certain and beyond dispute that the three accused were tried for the crime under Article 294 (5) of the Revised Penal Code.

Now, to the merits.

The core of Ocampo's arguments in this instant petition is that the findings of the appellate court do not conform to the evidence on record. It should be emphasized that factual matters cannot be raised in a petition for review on *certiorari* before the Court as this Court is limited to reviewing only questions of law.^[29] The findings of fact of the trial court are binding upon this Court when affirmed by the Court of Appeals.^[30] Exceptions to this rule are when the findings of fact of the Court of Appeals are contrary to the findings and conclusions of the trial court, or are not supported by the evidence on record.^[31] Absent any ground to apply the exception to this instant case, there is no reason, therefore, to disturb the findings of the lower courts.

Petitioner claims it was erroneous for the appellate court to give credence to Misayah's uncorroborated evidence because it failed to establish where his money and other valuables came from and his injuries did not conform to the nature of the attack made on him as well.

Based on the records, we cannot see how and why the questions raised by petitioner can cast doubt on the credibility of the testimony of Misayah. As Misayah owns a drug store, it is not unlikely that Misayah would have P29,000.00 cash in his possession as he returned home from a day's work. With respect to the injuries suffered by Misayah, he stated in his cross examination that he tried to parry the blows made by all the accused by the use of his hands.^[32] Thus, it is believable that his hands would bear the brunt of the blows. Further, Miranda himself admitted during his direct examination that he "personally saw" Cruz strangle Misayah.^[33]

Moreover, we give weight to the trial court's observation that Misayah testified "in a straightforward manner" and positively identified not only Cruz as the one who choked him but also the other two (2) accused.^[34] The testimony of a sole witness, though uncorroborated, is sufficient for conviction if it is free from any sign of impropriety or falsehood.^[35] The testimony of a lone eyewitness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity and had been delivered spontaneously, naturally and in a straightforward manner.^[36] Indeed, the testimony of a single witness is sufficient and needs no corroboration, save only in offenses where the law expressly prescribes a minimum number of witnesses.^[37]

On the lower court's disregard of defense witness Santos's testimony, we have consistently held that where the credibility of witnesses is an issue, the appellate court will generally not disturb the findings of the trial court unless some facts and circumstances may have been overlooked that may otherwise affect the result of the case.^[38] The Court accords deference to the trial court's appraisal on a witness's credibility, or lack thereof, because of its superior advantage in observing the conduct and demeanor of the witness while testifying.^[39] Given that the observation of the trial court with respect to Santos is supported by evidence, there is no ground to discredit the trial and appellate courts' assessment of Santos's testimony.

Petitioner likewise alleges that Misayah's testimony was filled with inconsistencies