

EN BANC

[G.R. No. 135047, March 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO CACHOLA AND FREDDIE MENDOZA, ACCUSED-
APPELLANTS.**

DECISION

DAVIDE JR., C.J.:

Appellants Freddie Mendoza (hereafter FREDDIE) and Ricardo Cachola (hereafter RICARDO) were both convicted of the crime of murder on 1 June 1998 by Judge Antonio M. Laggui, of the Regional Trial Court of Aparri, Cagayan, Branch 10, in a decision^[1] the dispositive portion of which states:

WHEREFORE, the court hereby renders judgment in

1. -- Criminal Case No. 10-586 finding the accused Richard Cachola and Freddie Mendoza NOT GUILTY of the crime of murder as charged in the Information for the disappearance and alleged death of one Buenafe G. Cabel for insufficiency of evidence, and acquitting them from the said charge;
2. -- Criminal Case No. 10-585 finding the accused Richard Cachola and Freddie Mendoza GUILTY beyond reasonable doubt of the crime of Murder, with the aggravating circumstances of dwelling and nocturnity, for hacking to death Magno Cabel and sentencing them to ...
 - 2.1 -- suffer the extreme penalty of death by lethal injection;
 - 2.2 -- pay jointly and severally the heirs of the deceased Magno Cabel the mandatory death indemnity of P50,000.00, and the costs of litigation.

SO ORDERED.

The prosecution's version of the events is as follows:

Dolores Cabel testified that in the evening of 17 February 1995 she and Mariano Cabel were in their house at Bicud, Lal-lo, Cagayan. Dolores was then folding clothes, while Mariano was sitting on a wooden bench beside the window. Moments later, the two saw RICARDO and FREDDIE enter the house of Magno Cabel which was about four meters away from Dolores and Mariano's house. The two observed that RICARDO and FREDDIE were armed with "*tabas*" (bolos), and once inside

Magno's house, they started hacking Magno. Dolores and Mariano heard their sister-in-law, Buenafe Cabel, screaming for help. Dolores ran out of her house with a kerosene lamp and proceeded to Magno's house. When Dolores reached the front of Magno's house, she saw RICARDO and FREDDIE bringing Buenafe down. Upon reaching the ground, RICARDO and FREDDIE mauled Buenafe. Dolores was three meters away from them when she witnessed this. RICARDO and FREDDIE then brought Buenafe with them towards Cabayabasan, Lal-lo, Cagayan, about ten kilometers from Bicud, Lal-lo, Cagayan. When Dolores and Mariano went up Magno's house, they saw Magno dead, lying in a pool of his own blood. Dolores cried out for help and some people came and carried Magno's body to her house.^[2]

The following day, 18 February, a post-mortem examination was conducted on Magno's body by Dr. Cesar R. Real, Municipal Health Officer of Lal-lo, Cagayan. His findings showed the following injuries:

1. Wound hacked, 6 inches in length involving skin, soft tissue clavicular bone 1 inch, lateral to the base, neck extremities starting 1 inch below the clavicle extending to the level of the scapular bone, right;
2. Wound hacked, 5 inches in length 0.5 cm. lateral to wound No. 1;
3. Wound hacked, 5 ½ inches lateral to wound No. 2;
4. Avulsion, scalp, parietal lobe, brain right;
5. Avulsion, 2nd phalanx middle, little finger, left;
6. Wound incised, 2 ½ inches in length, kneejoint, right.

Cause of death--Cardio-respiratory arrest secondary to cerebral hemorrhage due to hack wounds.^[3]

Dr. Real issued a death certificate for Magno Cabel.

Two months after the hacking death of Magno, the remains of Buenafe were exhumed by the police. When the remains were brought to his clinic, Dr. Real told Buenafe's nearest of kin to consult instead a medico-legal expert to establish the cause of Buenafe's death.^[4]

FREDDIE and RICARDO were subsequently charged with Murder in two separate informations docketed as Criminal Cases Nos. 10-585 and 10-586 of Branch 10 of the Regional Trial Court of Aparri, Cagayan. The accusatory portion of the Information in Criminal Case No. 10-585 reads:

That on or about February 17, 1995, in the municipality of Lal-lo, province of Cagayan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, with intent to kill, with evident premeditation, and with treachery, conspiring together and helping one another, did then and there willfully, unlawfully, and feloniously assault, attack and hack one Magno Cabel, inflicting upon the latter several hack wounds which caused his death.

The accusatory portion of the Information in Criminal Case No. 10-586 reads:

That on or about February 17, 1995, in the municipality of Lal-lo, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, with intent to kill, with evident premeditation and with treachery conspiring together and helping one another, did then and there feloniously assault, attack and maul one Buenafe Cabaal, after mauling the latter, took her away. In the latter part of April, 1995, the skeletal remains of said Buenafe Cabaal was found dumped at the eastern part of Cabayabasan Cemetery, Lal-lo, Cagayan.

[5]

After the prosecution had rested its case, the defense filed a demurrer to evidence, but the same was denied. Thus, RICARDO and FREDDIE were required to present their evidence.

FREDDIE testified that he had been residing at San Pedro, Lasam, Cagayan, since 1985 until the time the incident occurred. Before 1985, he was a resident of Cabayabasan, Lal-lo, Cagayan. On 17 February 1995, he stayed on his farm the whole day doing his chores. After finishing the day's work, he went back to his house, fed the pigs and took supper with his family. Then, he went directly to bed and did not leave the place again. FREDDIE claimed that he did not know Magno Cabaal, Mariano Cabaal and Buenafe Cabaal. Further, he denied that he was a close friend of RICARDO, claiming that they would meet each other only at parties. He admitted, though, that his home at San Pedro, Lasam, Cagayan was very near Bicud, Lal-lo, and that the same could easily be negotiated by bicycle or motorbike.

[6]

FREDDIE's testimony was bolstered by defense witness Felipe Tolentino, a carpenter hired by the former, who stated that he was working in FREDDIE's house from 15 February 1995 to 20 February 1995 and that he resided therein during the said period. Felipe stated that he slept in the sala of FREDDIE and that on 17 February he went to sleep at 7 p.m. He did not notice FREDDIE leave the house the whole night and he slept until 5 a.m. the next day.[7]

For his part, RICARDO testified that he did not know Magno Cabaal and Buenafe Cabaal. On 17 February 1995, he was at Cabayabasan, Lal-lo, farming his land. In the evening, he took his supper and went to bed. He never left his house the whole night. RICARDO denied knowing FREDDIE, and claimed that he did not know that Magno Cabaal had been killed and that Buenafe had been abducted. He admitted that barangays Cabayabasan and Bicud are adjacent to each other.[8]

Manuel Cabaal, a nephew of Magno, Mariano, and Dolores Cabaal, testified in favor of the defense. He stated that he was in his house at Bicud, Lal-lo, at the time of the incident and when he went to help Mariano and Dolores, they told him they did not see who killed Magno.[9]

Mariano Cabaal was presented as rebuttal witness. He asserted that he saw FREDDIE and RICARDO go up the house of Magno and that they later brought Buenafe down and took her away.

As stated at the beginning of this *ponencia*, the trial court convicted FREDDIE and

RICARDO for the murder of Magno but acquitted them in the case of Buenafe for lack of evidence.

They appealed to us from the judgment of conviction. In their Appellants' Brief, they assert that the trial court erred in:

1. ADMITTING THE IDENTIFICATION OF THE ACCUSED, IGNORING CLEAR EVIDENCE TO THE CONTRARY;
2. GIVING CREDENCE TO THE TESTIMONIES OF THE TWO EYEWITNESSES WHOSE DEMEANOR BELIED THEIR CLAIMS;
3. IGNORING MATERIAL CONTRADICTIONS AND INCONSISTENCIES IN THE TESTIMONIES OF THE WITNESSES, GIVING WEIGHT TO FALSE AND INCREDIBLE CLAIMS;
4. DISREGARDING THE UNDISCREDITED CORROBORATED ALIBIS OF THE ACCUSED;
5. APPRECIATING TREACHERY WITHOUT PROOF; AND
6. APPRECIATING NOCTURNITY AS ATTENDANT AGGRAVATING CIRCUMSTANCES.

As regards the first three assigned errors, FREDDIE and RICARDO maintain that Mariano Cabael was initially unable to identify them in his Sworn Statement for he originally stated that "Ising Cachola with an unidentified companion" were the perpetrators of the crime. They claim that he was obviously confused regarding the identity of the killers as "Ising" is the brother of RICARDO. The testimony of Dolores Cabael, they assert, is no more convincing because she suddenly appeared to testify but never gave any previous statement to the police regarding the crime. In fact, she told her nephew, Manuel Cabael, that she could not identify the perpetrators of the crimes.

FREDDIE and RICARDO also criticized the demeanor of Mariano Cabael in the witness stand. They claimed Mariano would suddenly laugh without any reason and give incoherent and nonsensical answers. They similarly branded Dolores' demeanor as incomprehensible and unintelligible.

FREDDIE and RICARDO then point out inconsistencies in the testimony of Mariano: he observed that the bolo used was long when it was only about 6 inches; that during preliminary investigation he stated that at the time of the incident, he was sitting on a ladder but during trial he said that he was sitting on a wooden board; and that he would keep changing his age when asked to give it.

The main issue in this appeal is the credibility of the two prosecution witnesses, Mariano and Dolores. It is a settled rule that findings of the trial court are accorded great weight and respect since it had the opportunity to observe the demeanor of the witnesses as they testified, and availed of the various aids to determine whether the witnesses were telling the truth or concocting lies. Unless substantial facts and circumstances have been overlooked or misunderstood by the trial court, which if considered would materially affect the result of the case, the findings of said court