

SECOND DIVISION

[G.R. No. 127761, April 28, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO R. PASCUAL, ACCUSED-APPELLANT.

DECISION

DE LEON, JR., J.:

Before us on appeal is the Decision^[1] of the Regional Trial Court of Roxas, Isabela, Branch 23, finding appellant Pedro Pascual y Reboca guilty of the crime of murder, in Criminal Case No. Br. 23-636, for the killing of Dr. Maximino P. Picio, Jr.

The appellant, Pedro R. Pascual, and a certain John Doe were charged with the crime of murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, in an amended Information dated July 13, 1995, which reads:

That on or about the 14th day of March, 1995, in the municipality of San Manuel, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, together with John Doe, whose real identity is still to be determined, conspiring, confederating together and helping one another, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, with intent to kill, suddenly and unexpectedly and without giving him chance to defend himself, assault, attack and shoot for several times with short firearms one Dr. Maximino P. Picio, Jr., who as a result thereof, suffered multiple gunshot wounds on the different parts of his body which directly caused his death.

CONTRARY TO LAW.^[2]

Upon being arraigned on July 13, 1995, appellant Pedro Pascual, assisted by his counsel, entered the plea of "Not guilty". Thereafter, trial on the merits ensued.

The evidence adduced by the prosecution shows that the victim, Dr. Maximino Picio, Jr., was the Municipal Health Officer of San Manuel, Isabela. On March 14, 1995 at around 7:00 o'clock in the evening, Dr. Picio went to the house of Marissa Robles who served as a midwife in the Rural Health Unit of San Manuel from January 26, 1994 until her services were terminated on August 5, 1994 by Municipal Mayor Reynaldo P. Abesamis of San Manuel, Isabela. While at the house of Marissa, Dr. Picio discussed with her certain matters concerning the Rural Health Unit of San Manuel.^[3]

At around 9:00 o'clock in the evening, Dr. Picio decided to go home. He was accompanied by Marissa outside the house where his motor vehicle was parked at the roadside. After boarding his vehicle, and while he was about to leave, two (2)

unidentified persons who were armed with short firearms suddenly appeared and walked toward Dr. Picio and Marissa. Alarmed, Marissa called the attention of the unsuspecting Dr. Picio that the "enemies" were coming ("May dumarating na kalaban").^[4] One of the unidentified men shoved Marissa and at the same time told her to get out of the way.^[5] Immediately thereafter, the two unidentified men started firing their guns at Dr. Picio even as the latter pleaded to them in Ilocano not to shoot for the reason that they were friends ("Saan kayo agkaskasta, agkakadua tayo.") Apparently determined to kill their victim, the assailants pulled Dr. Picio out of his vehicle and continued to shoot him several times as he laid helpless on the ground. The two assailants left only after the victim was already dead.^[6]

Prosecution eyewitness Marissa Robles recognized the assailants due to the electric light in front of the house generated by the Isabela Electric Company (ISELCO) and the light emanating from the headlights of the vehicle of Dr. Picio. There was also a moon that evening when the shooting incident happened.^[7] Upon the arrest of appellant Pedro Pascual on the following day, March 15, 1995, Marissa pointed to him as one of the two assailants^[8] whom she described as small, with white complexion and sporting a brushed-up hair. She also described the other assailant as tall, dark and slender.^[9]

The said prosecution eyewitness disclosed that she had seen the appellant about one (1) week prior to the shooting incident in the Rural Health Unit of San Manuel, Isabela when the appellant arrived in the morning and stayed there briefly before he left the place.^[10]

Dr. Bernardo Layugan, Municipal Health Officer of Roxas, Isabela conducted the post mortem examination on the body of the victim on March 16, 1995. His findings as to the cause of death of the victim are contained in the Post Mortem Certificate of Death,^[11] to wit: 1. Gunshot wound inlet left upper lip; 2. Gunshot wound inlet chin; 3. Gunshot wound anterior sternal portion; 4. Gunshot wound inlet right armpit; and 5. Gunshot wound anterior abdominal portion.

Rosalinda S. Picio, wife of the late Dr. Maximino Picio, Jr., testified on the civil aspect of the case. She stated that they spent around P 300,000.00 for the wake and funeral service. She also declared that her late husband used to receive a monthly salary of P13,000.00 as municipal health officer in addition to the P 240,000.00 annual income he used to earn in his farming and grains business.^[12]

On the other hand, appellant Pedro Pascual denied that he killed Dr. Maximino Picio, Jr. Appellant Pascual testified that he was released on recognizance from the provincial jail of Isabela on March 3, 1995 after being detained there for almost three (3) years as a suspect in an ambush that took place sometime in 1990 and for his past activities as a former member of the New Peoples Army (NPA). On March 8, 1994, his services as carpenter were hired by his kumpadre, Fernando Agaloos, in the construction of the house of a certain Napoleon Velasco. He worked in the construction until he was arrested by the police on March 15, 1995 in connection with the killing of Dr. Maximino Picio, Jr.^[13]

Appellant Pascual claimed that he stayed in his house in Barangay Eden, San Manuel, Isabela during the entire evening of March 14, 1995. At around 7:00 o'clock

in the evening of the said date his neighbors, Guillermo Velasco and Santiago Casticon, arrived in his house. Shortly thereafter, another neighbor, Elmer Velasco, also arrived. Among other matters, they talked about his life as a detention prisoner in the provincial jail. After his visitors had left at past 10:00 o'clock in the evening, Pascual went to sleep.^[14]

On the following morning of March 15, 1995, appellant Pascual reported for work in the construction site of the house of Napoleon Velasco. However, he failed to return in the afternoon of the same date inasmuch as he was arrested by the police when he returned to his house from work to take his lunch.

Upon his arrest, appellant Pedro Pascual was immediately brought by Police Senior Inspector Dionisio Borrromeo to the PNP Crime Laboratory Service in Santiago City, Isabela for paraffin examination to determine the presence of gunpowder residue (nitrates) on the hands of the appellant. Boiled wax was poured on his hands.^[15] The result of the paraffin examination however, did not show the presence of any gunpowder residue on the hands of the appellant.^[16]

The appellant denied that he knew Dr. Maximino Picio, Jr. as the Rural Health Officer of San Manuel, Isabela. He also denied having gone to the Rural Health Unit of San Manuel, Isabela one (1) week before Dr. Picio was killed.

Defense witnesses Elmer Velasco, Guillermo Velasco and Santiago Casticon corroborated the testimony of appellant Pedro Pascual. The said defense witnesses respectively testified, in substance, that they were in the house of appellant Pascual between 7:00 o'clock to 10:00 o'clock in the evening of March 14, 1995 to welcome him who had been away from their barangay for almost three (3) years; and that they talked about the life of the appellant as a detention prisoner in the Isabela provincial jail. They claimed that the appellant did not leave his house where they all stayed that evening.^[17]

After analyzing the evidence, the trial court rendered its Decision the dispositive portion of which reads, to wit:

AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds accused Pedro Pascual guilty beyond reasonable doubt of the crime of murder provided for and penalized under Article 248 of the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua*, to indemnify the heirs of the victim the sum of P 300,000.00, the amount spent for the coffin, wake and burial of the victim, P 50,000.00 for life, without however subsidiary imprisonment in case of insolvency, and to pay the cost.

Considering that the other accused has not been apprehended, let this case be archived to be revived upon apprehension of said accused and/or upon motion of the public prosecutor.

SO ORDERED.^[18]

In his appeal, appellant Pedro Pascual interposed the following assignments of error:

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE UNCORROBORATED TESTIMONY OF MARISSA ROBLES THAT SHE SAW THE COMMISSION OF THE CRIME AND RECOGNIZED THE ACCUSED-APPELLANT AS ONE OF THE KILLERS OF DR. MAXIMINO PICIO, JR.

II

THE TRIAL COURT ERRED IN REJECTING THE TESTIMONIES OF THE ACCUSED-APPELLANT AND WITNESSES ELMER VELASCO, GUILLERMO VELASCO AND SANTIAGO CASTICON ON THE GROUND THAT THEIR TESTIMONIES ARE "TOO GOOD TO BE TRUE".

III

THE TRIAL COURT ERRED IN NOT GIVING ANY EVIDENTIARY VALUE TO THE RESULTS OF THE PARAFFIN TEST ON ACCUSED-APPELLANT.

IV

THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED-APPELLANT WAS ONE OF THE KILLERS OF THE VICTIM.^[19]

Appellant Pedro Pascual expressed grave doubt over the presence of Marissa Robles at the scene of the crime. He stated that Marissa, who is a young and single lady from the barrio, should have had enough time talking with the late Dr. Maximino Picio, Jr. for two (2) hours and so it was not necessary for her to still accompany him outside her house at such an unholy hour in the evening. Appellant also stated that if Marissa were indeed present at the crime scene, then she could have been hit by bullets or she could have even been killed by the assailants knowing that she was a potential witness against them.

The appellant further stated that even on the assumption that Marissa was beside the victim at the time the shooting incident occurred, her uncorroborated identification of the appellant allegedly because the scene of the crime was well-lighted is unreliable; and that the suddenness of the attack could not have afforded her the time, calmness and presence of mind to recognize the assailants.

Moreover, appellant Pascual opines that it was unlikely for prosecution witness Marissa Robles to have been at the Rural Health Unit of San Manuel, Isabela and saw him one (1) week prior to the shooting incident on March 14, 1995 inasmuch as she had been separated from the service as early as August 5, 1994; and that Marissa failed to disclose the purpose of her alleged visit therein and to explain how and why she had particularly noticed and recognized him.

In addition, the appellant pointed out that the paraffin test conducted on his hands at the PNP in Santiago City yielded negative results. According to him while gunpowder traces or nitrates can be removed by acetic acid or the ordinary vinegar, there was no showing that he knew of such fact, and that he used vinegar to remove gunpowder traces from his hands.