

THIRD DIVISION

[G.R. No. 124977, June 22, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SABELO RAGUNDIAZ Y AUREGUE AND ROLANDO FLORES Y SAN
MIGUEL, ACCUSED. ROLANDO FLORES Y SAN MIGUEL, ACCUSED-
APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

Before us is the appeal interposed by accused-appellant Rolando Flores y San Miguel from the decision^[1] dated February 16, 1996 of the Regional Trial Court of Valenzuela, Metro Manila, Branch 75, in Criminal Case No. 4425-V-94 finding him and co-accused Isabelo Ragundiaz y Auregue guilty of acting in conspiracy with one another in killing BILLY CAJUBAN on July 9, 1994. The appeal of accused-appellant Isabelo Ragundiaz y Auregue was dismissed in a Resolution^[2] of the Court dated October 22, 1997 which became final and executory on December 4, 1997 and recorded in the Book of Entries of Judgments.^[3]

The Amended Information^[4] filed on July 27, 1994 by State Prosecutor Esteban A. Molon, Jr. before Branch 75 of the Regional Trial Court of Valenzuela, charged Isabelo Ragundiaz y Auregue and Rolando Flores y San Miguel, both detained, and John Doe, Peter Doe, and Jack Doe, all at large, of the crime of murder committed as follows:

"That on or about the 9th day of July 1994 in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause, with treachery, evident premeditation, abuse of superior strength and with deliberate intent to kill, did then and there wilfully, unlawfully and feloniously attack and shoot on the head one BILLY CAJUBAN, thereby inflicting upon said victim serious physical injuries which directly caused his death."

When arraigned, both accused entered separate pleas of not guilty. Thereafter, upon motion filed by the accused and hearing conducted thereon by the trial court, an order^[5] dated November 9, 1994 was issued granting bail to both accused in the amount of Thirty Thousand (P30,000.00) Pesos in cash each which was later reduced to a cash bond of P20,000.00 each. Only accused Isabelo A. Ragundiaz posted a cash bond of P20,000.00 and was provisionally discharged from police custody. Accused-appellant Rolando Flores remained detained at the Valenzuela Municipal Jail.

During the trial, the prosecution presented seven (7) witnesses, namely: Alberto Castillo, Lito Salinas, Lina Cajuban, Ludivino Lagat, SPO1 Josefino Canary, Jr.,

Honorato A. Flores, and SPO1 Arnold Alabastro, while the defense had as witnesses accused Isabelo Ragundiaz, his common-law wife Rachelle Ragundiaz and accused Rolando Flores.

The trial court summed up the evidence adduced by the parties, and stated its findings as follows:

"From an evaluation of the records, prosecution established that the victim Billy Cajuban was murdered on July 9, 1994, whose body was found at De los Reyes St., Gen. T. de Leon, Valenzuela, Metro Manila, in a muddy portion of the roadside. The victim died of gunshot wound on the head (Exh. Q). Prosecution witnesses SPO1 Josefino Canary and SPO1 Edgar Lim who immediately responded to the report found fresh blood on the body of the victim, which bring to point the probability that the killing might have been perpetrated at same place.

While admittedly, there is no eyewitness of the killing per se, the Court nonetheless appreciates the finding of conviction on circumstantial evidence. Circumstantial evidence may be sufficient to sustain a verdict of guilty beyond reasonable doubt on accused (Article III, Sec. 12 (1), 1987 Constitution). This is so because crimes are usually committed in secret and under conditions where concealment is highly improbable. To require direct testimony in all cases would result in the acquittal of guilty parties leaving them free to once more wreak havoc on society (People vs. Lavuzo, 175 SCRA 47, cited in People vs. Gonzaga, G.R. No. 90036, August 21, 1992).

Prosecution witness Alberto Castillo saw on July 9, 1994 at 12:30 early morning Isabelo Ragundiaz having an altercation with Billy Cajuban, the former boxed, poked a gun and dragged the latter and boarded him in a taxicab (El Salvador) then driven by Rolando Flores. They had three (3) other companions, who were not identified.

Prosecution witness Lito Salinas testified that while on duty as waiter at Skyblue Beerhouse located at 8th Avenue cor. Rizal Avenue, Kalookan City, at around 3:30 in the morning of July 9, 1994, he saw Rolando Flores, Isabelo Ragundiaz and three others entered the beerhouse. He noticed that the shirt of Flores was stained with blood and that there was wound on his left hand. They boarded an El Salvador taxi.

A post-mortem examination conducted on the victim shows that the victim died of gunshot wound (Exh. Q).

The statement of Isabelo Ragundiaz that he was at his common law wife's place of work in Makati is corroborated by no less than his common law wife Rachelle Ragundiaz.

Accused Rolando Flores, on the other hand, testified that he went to his residence at 8th Avenue, Kalookan City at 9:00 in the evening of July 9, 1994 to sleep after plying his route and woke up at 5:00 o'clock the next morning. No other witness was presented to corroborate his testimony. In fact, the distance from his residence at 8th Avenue to the place where

he was seen together with Isabelo Ragundiaz and three (3) others boarded Billy Cajuban in an El Salvador taxi at 3rd Avenue does not render impossible his participation in the commission of the crime.

With the turn out of events, from the time accused Isabelo Ragundiaz, Rolando Flores and three others were seen along 3rd Avenue, Caloocan City, with Ragundiaz poked a gun and dragged Billy Cajuban inside an El Salvador taxi around 12:30 early morning of July 9, 1994 up to the time the group arrived at Skyblue Beerhouse at 8th Avenue cor. Rizal Avenue, Kalookan City boarding the same taxi, with Rolando Flores sporting a stained shirt and wounded hand at around 3:30 that morning, added the fact that SPO1 Josefino Canary and SPO1 Edgar Lim responded to the report at around 2:00 o'clock that morning and saw the dead body of Billy Cajuban along De los Reyes St., Gen. T. de Leon, Valenzuela, these circumstances are consistent such that the Court is convinced that accused in conspiracy are the perpetrators of the crime.

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Circumstances established by the prosecution are consistent and if collated constitute an unbroken chain of events leading to a reasonable conclusion that points to the guilt of the accused.

The allegation of the defense that prosecution witnesses Alberto Castillo and Lito Salinas are relatives of the victim Billy Cajuban does not render inadmissible their testimonies. In fact, even the testimony of accused Isabelo Ragundiaz is corroborated by no less than his common-law-wife, while the testimony of Rolando Flores remained uncorroborated. In *People vs. Libungan*, G.R. No. 102351, March 22, 1993, the Supreme Court ruled:

"Relationship alone is not a ground for discrediting a witness testimony. It is a well-established rule that the mere fact that the witness is a relative of the victim is not a valid on (sic) sufficient ground to disregard the former's testimony nor does it render the same less worthy of credit. In *People vs. Cuyo*, 196 SCRA 447 (1991), we held that the closeness of the prosecution witnesses' relationship to the victim should not be deemed erosive of their credibility as witnesses. The weight of their evidence must be assessed by the same norms applicable to other witnesses."

Absence (sic) proof of ulterior motive on the part of the prosecution witnesses to testify against the accused, such testimonies are admissible. In fact, after observing the demeanor and deportment of said witnesses together with the variations of their expressions while on the witness stand, the Court concludes that their testimonies are credible.

The killing perpetrated on the victim having been qualified by the circumstance of abuse of superior strength, the charge of murder is in order. The felons having taken advantage of their collective strength to overwhelm their comparatively defenseless victim, the qualifying

circumstance of taking advantage of superior strength is present. The culprits used their dominance in number to overpower the deceased. They also used force entirely out of proportion to the means of defense available to the victim who was unarmed unsuspecting of his impending fate and left alone at the mercy of his tormentors (People vs. Waggay, et al., G.R. No. 98154, February 9, 1993)."[6]

On February 16, 1996, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, the prosecution having established by proof beyond reasonable doubt the guilt of both accused of the crime of Murder punishable by Article 248(1) of the Revised Penal Code, accused ISABELO RAGUNDIAZ y AUREGUE and ROLANDO FLORES y SAN MIGUEL are hereby found GUILTY as charged acting in conspiracy and are sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided by law and to indemnify the family of the victim in the amount of P50,000.00 each as death indemnity, P70,000.00 as actual damages and P50,000.00 as moral damages.

Accused Rolando Flores shall be credited with the full term of his preventive imprisonment.

The cash bond posted by accused Isabelo Ragundiaz for his preventive imprisonment is hereby ordered forfeited in favor of the government.

SO ORDERED."[7]

Accused Rolando Flores and accused Isabelo Ragundiaz filed separate notices of appeal, the former on February 20, 1996[8] and the latter on March 5, 1996[9]. As stated earlier, the appeal of accused Isabelo Ragundiaz was dismissed by the Court for jumping bail pursuant to Section 8, Rule 124 of the Rules of Court. Accordingly, the judgment against Isabelo Ragundiaz finding him guilty of murder is now final.

In his appeal brief, accused-appellant Rolando Flores raises the following assignment of errors[10]:

I

THE TRIAL COURT GRAVELY ERRED WHEN IT CONVICTED THE ACCUSED DESPITE THE INSUFFICIENCY OF EVIDENCE.

II

THAT THE TRIAL COURT GRAVELY ERRED IN NOT GIVING DUE CONSIDERATION TO THE DEFENSE OF ACCUSED.

Appellant avers that only two of the prosecution witnesses provided the court with circumstantial evidence which were used as basis in rendering a judgment of conviction against the accused. These two witnesses, Alberto Castillo and Lito Salinas, testified only on matters which transpired before and after the killing and as such, there was no eyewitness to the actual killing of victim Billy Cajuban. Thus, it is

the contention of accused-appellant Flores that the testimonies of these two witnesses do not constitute circumstantial evidence sufficient to establish the guilt of accused Rolando Flores beyond reasonable doubt.

As previously stated, the court *a quo* convicted accused-appellant Flores as co-principal of the crime of murder for the killing of Billy Cajuban. The conviction was based purely on circumstantial evidence because there was no eyewitness to the actual killing of the victim. Thus, the core issue in the instant appeal is whether or not the circumstantial evidence linking accused-appellant to the killing is sufficient to sustain a judgment of conviction beyond reasonable doubt.

The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.^[11] The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person;^[12] i.e. the circumstances proven must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent and with any other rational hypothesis except that of guilt.^[13]

Based on the testimonies of the prosecution witnesses, the trial court appreciated the following two pieces of circumstantial evidence in convicting accused-appellant of the crime of murder:

- (1) Accused-appellant Rolando Flores was present and witnessed the altercation between accused Isabelo Ragundiaz and Billy Cajuban which took place at the basketball court located at 3rd Avenue, Caloocan City at about 12:30 A.M. on July 9, 1994. Appellant Flores stood by and watched his co-accused Ragundiaz box Cajuban on the face and then a poke a gun at him. Finally, appellant Flores allegedly helped Ragundiaz drag Cajuban into an El Salvador Taxi and Flores drove the taxi away from the basketball court with Billy Cajuban, accused Ragundiaz, and three (3) other companions on board;
- (2) At around 3:30 of that same morning of July 9, 1994, accused-appellant Rolando Flores entered the Sky Blue Beerhouse in Caloocan City together with co-accused Ragundiaz and three other companions but without Billy Cajuban. They arrived at the beerhouse on board an El Salvador Taxi. At that time, the white T-shirt of accused-appellant Flores was stained with blood and he had a wound on the thumb of his left hand.

These two circumstances, coupled with the fact that the dead body of the victim Billy Cajuban was found at around 2:00 A.M. of that same day, were deemed sufficient by the trial court to convict the accused-appellant of the crime of murder beyond reasonable doubt.