

FIRST DIVISION

[G.R. No. 130964, September 03, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO ACUNO Y BABASOL, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

A treacherous and sanguinary plot claimed the lives of three innocent persons and wounded more than a dozen others. No culprit could be identified at first. But after a couple of days, accused-appellant Ricardo Acuno's name surfaced to end the puzzling search for the perpetrator. Indicted, he vehemently denied responsibility. His trial, however, appeared to have proved otherwise and he was thus convicted. But as he maintains his innocence, we heed the call for a review.

Records show that accused-appellant was prosecuted and subsequently convicted under an information^[1] for multiple murder and multiple frustrated murder filed before the Regional Trial Court, Cagayan de Oro City, Branch XIX, the accusatory portion of which reads:

"That on or about July 31, 1993, at 4:00 o'clock in the afternoon at Capt. Vicente Roa Street, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously and with intent to kill, and with the qualifying aggravating circumstance of evident premeditation and treachery, deliberately placed inside a cement bag containing rice grains fragmentation grenade, a deadly explosive, inside a passenger jeepney loaded with several passengers, with deliberate intent to cause explosion of the same and as a consequence of which (explosion) resulted to the death of passengers Teresita Mabulay, Celso Tunglos, and Cookie Grace Dayla and serious physical injuries to passengers Richard Rabela, Ruben Cabanyas, Reynante Doria, Rey Nagac, Elsie Nagac, Charmaine Nagac, Angelina Mabunay, Oliveth Bacarrisas, Glady Abella, Arturo Domingo, Jess Nazar, Elizabeth Abratiguin, which were necessarily fatal and mortal, thus performing all the acts of execution which should have also produce (sic) the crime of Murder as a consequence, but nevertheless did not produce it by reason of causes independent of his will, that is, by the timely and able medical assistance rendered to the latter twelve (12) persons which prevented their death."

Accused-appellant pleaded not guilty to the indictment. On December 1, 1993, a "Partial Stipulation of Facts" was entered into and signed by accused-appellant, private complainants, and their respective counsel, wherein the following facts were admitted:

1. Identity of Accused Ricardo Acuno y Babasol. - Accused Ricardo Acuno y Babasol, who was arraigned before this Honorable Court on August 23, 1993, and who pleaded "Not Guilty" thereto, is the person being charged before this Court by numerous private complainants, led by Goldmar Mabulay, Gemma O. Gayla, Elizabeth Abratiguin, Angelina Mabunay, etc., for Multiple Murder and Multiple Frustrated Murder;

2. Occurrence of grenade explosion at hereinunder stated date, time, and place. - On July 31, 1993, at about 4:00 P.M., right inside a PUJ Jeep, bearing Plate No. KBR-125, plying the Cogon Market-Pagatpat and vice versa route parked at the Pagatpat Terminal Area, in Capt. Vicente Roa Street, this city, an explosion occurred, later determined to be caused by a fragmentation grenade;

3. As consequence of aforecited explosion, three (3) passengers died, while thirteen (13) were wounded. - The explosion mentioned in paragraph 2 immediately preceding was the direct cause of the death of three (3) of the PUJ jeep's passengers, to wit:

- a. Teresita (Indang) Mabulay of legal age, married and a resident of Pagatpat, this city;
- b. Celso Tunglos of legal age, married and a resident of Pagatpat, this city;
- c. Cookie Grace Gayla a minor, aged 3 years and 11 months, and a resident of Canitoan, this city;

while thirteen (13) other passengers of the same vehicle sustained multiple injuries as follows:

- a. Richard Rabela - from Pagatpat, Cagayan de Oro City;
- b. Ruben Cabanyas - from Canitoan, Cagayan de Oro City;
- c. Reynante Doria - from Canitoan, Cagayan de Oro City;
- d. Rey Nagac - from Kauswagan, Cagayan de Oro City;
- e. Elsie Nagac - from Kauswagan, Cagayan de Oro City;
- f. Charmaine Nagac - from Kauswagan, Cagayan de Oro City;
- g. Angelina Mabunay - from San Simon, Cagayan de Oro City;
- h. Oliveth Bacarrisas - from Pagatpat, Cagayan de Oro City;
- i. Gladly Abella - from Canitoan, Cagayan de Oro City;
- j. Arturo Domingo - from Canitoan, Cagayan de Oro City;
- k. Jess Nazar - from Canitoan, Cagayan de Oro City;
- l. Elizabeth Abratiguin - from Pagatpat, Cagayan de Oro City;
- m. Gemma Gayla - from Canitoan, Cagayan de Oro City.

4. Idemnifications for Death of some passengers of subject PUJ jeep. - The heirs of the late Teresita (Indang) Mabulay and Cookie Grace Gayla, are entitled for idemnifications in the sum of P50,000.00 each, in accordance with the Rulings of the Supreme Court in recently-decided cases.

5. In addition, the heirs of deceased Teresita (Indang) Mabulay and Cookie Grace Gayla claim for expenses incurred for the funeral during the

wake/vigil, labor and materials for pantheon and moral damages. - Due to the untimely deaths of Teresita (Indang) Mabulay and Cookie Grace Gayla, their heirs, namely: Engr. Goldmar Mabulay (Husband) and Orville Gayla (father), respectively, have incurred various expenses and therefore further claim for the following indemnifications:

a. For the late Teresita (Indang) Mabulay:

1) Funeral expense (supported by receipt) - -----	P7,500.00
2) Labor and materials for construction of Pantheon - - - - -	5,000.00
3) Expenses during wake/vigil for six (6) days and burial- - - - -	15,000.00
-	
4) Moral damages- - - - - -----	<u>50,000.00</u>
Total	P77,500.00 vvvvvvvvvvv

b. For the late Cookie Grace Gayla:

1) Funeral expenses- - - -----	P7,500.00
2) Labor and materials for construction of Pantheon - - - - -	5,000.00
3) Expenses during wake/vigil and burial - - -----	15,000.00
4) Moral damages - - - - ----- -----	<u>50,000.00</u>
Total	P77,500.00 vvvvvvvvvvv

6. Indemnifications for the other Passengers who were injured. - The following private complainants also sustained multiple wounds by reason of an explosion that occurred inside a PUJ jeep bearing Plate No. KBR-125, as described fully above of which they were passengers, as a result of which they incurred huge medical and other expenses; in addition, they are claiming for moral damages, to wit:

a. Injured Passenger Angelina Mabunay:

- 1) Wounds sustained per Medical Certificate dated October 11, 1993:

"Multiple lacerated wounds left forehead, 3rd ICS (R), 4th ICS (L) (R) arm, (R) forearm, (L) forearm, (L) lumbar umbilical area (L) thigh (R) knee, (R) foot 2' to allege blast injury."

2) Per x-ray/ultra sound Report dated August 2, 1993, metallic fragments are still left inside the body of Angelina Mabunay, thus:

"Skull, APL:

Metallic fragments in the left frontal area.

No

demonstrable defect.

Chest PA:

Metallic foreign body in the right hilar area.

Negative for pneumohemothorax.

Negative hear and lungs."

3) Medical, actual, transportation and loss earnings	P24,556.00
4) Moral damages	30,000.00
Total	<u>P54,556.00</u>
	vvvvvvvvvvv

5) Sold one (1) cow for P6,000.00, to support needs for medicines, as evidenced by a Deed of Sale dated August 2, 1993.

b) Injured Passenger Gemma O. Gayla. -

1) Medical, actual, transportation and loss of earnings- - - - -	P25,238.80
2) Moral damages - - - - -	30,000.00
Total	<u>P55,238.80</u>
	vvvvvvvvvvv

c) Injured passenger Oliveth Bacarrisas. -

1) Medical expenses incurred - -	P3,406.15

2) Actual, transportations, loss of earnings - - - -	3,000.00
3) Moral Damages - - - - - - - -	10,000.00

Total	<u>P16,406.15</u>
	vvvvvvvvvvv

d) Injured passenger Elizabeth L. Abratiguin. -

1) Wounds suffered per Medical Certificate dated October 12, 1993 issued by Dr. Manuel Z. Sison, M.D.:

"Fractured maxillary left central lateral incisors cuspid and first premolar and mandibular right first and 2nd premolars due to a grenade blast."

2) Dental wounds sustained per Medical Certificate dated October 18, 1993:

"Grenade blast injury with shrapnel wounds on (R) elbow with incomplete fracture of ULNS, shrapnel wounds on face with laceration of (R) side of upper lip, (R) cheek and tongue, with comminution of (R) lower canine, (R) lateral incisor (R) upper central & lateral incisors, and (R) premolar teeth."

3) Hospital bill cost of medicines	P15,901.20

4) Actual, transportation and loss of earnings - -	5,945.00
5) Moral damages- - - - - - - -	30,000.00

Total	<u>P51,846.20</u>
	vvvvvvvvvvv

e) Injured passenger Arturo Domingo:

1) Wounds sustained per Medical Certificate issued by Dr. Alex Barlaan dated October 12, 1993:

"Lacerated wound 2 cm. frontal left side.
punctured wound forehead.
- Punctured wounds 2 pts. midsternal area 2nd & 3rd rib level.
- Punctured wounds right forearm M/3rd