

FIRST DIVISION

[G.R. No. 95260, March 08, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO PRADO Y CABRERA, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

This is an appeal from the decision dated June 28, 1990 of the Regional Trial Court, Dagupan City, Branch 41, in Criminal Case No. D-8070, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused **GUILTY** beyond reasonable doubt of the crime charged and hereby imposes upon the accused the penalty of **RECLUSION PERPETUA** and to indemnify the heirs of the victim Samuel Moulic, the sum of P30,000.00 as actual damages, P10,000.00 for moral damages and to pay the cost.^[1]

The information against appellant and two other accused, Peter Aquino and John Doe reads:

That on or about the 12th day of May, 1987, in the municipality of Mangaldan, Province of Pangasinan, New Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping one another, with intent to gain and by means of violence and intimidation against person, did then and there wilfully, unlawfully and feloniously take, steal and carry away one (1) motorized tricycle bearing plate no. AC-8801 worth P20,000.00 belonging to Jovencio Moulic, to his damage and prejudice; and on the occasion of the carnapping, said accused armed with bladed weapon and with intent to kill, did then and there wilfully, unlawfully and feloniously maul, attack and stab Samuel Moulic, driver thereof, inflicting upon him the following injuries:

- contusion-hematoma all over facial area
- both lips swollen and black
- fractured skull, parieto-occipital area, blood oozing and brain tissues coming out on examination
- contusion all over extremities (upper & lower)
- contusion over chest and abdomen
- stab wound 4-5 inches depth mid-portion lumbar area
- stab wound 2-3 inches in depth thoraco-lumbar area
- stab wounds 2-3 inches depth at 12th thoracic area
- stab wound 2-3 inches (R) side 12th thoracic area

which caused his death as a consequence, to the damaged and prejudice of his heirs.

Contrary to Republic Act No. 6539 in relation to Article 249 of the Revised Penal Code.^[2]

Appellant pleaded not guilty upon arraignment. His two co-accused remain at large.

The prosecution evidence establish the following facts:

On May 12, 1987, Samuel Moulic, a tricycle driver, was plying his route using a Honda motorcycle with plate no. AC-8801 and sidecar, owned by his brother Jovencio.^[3] When Samuel failed to return home that night, his family reported him missing to the police.^[4] They reported that Samuel was last seen driving his tricycle with unidentified passengers at about 10 o'clock in the morning along the highway at Barangay Mabilao, San Fabian, Pangasinan.^[5]

The following day, May 13, his body bearing several stab wounds was found along the boundary of Bigabiga and Rabon, San Fabian, Pangasinan.^[6]

On May 18, 1987, appellant and Eusebio Miranda went to the residence of Miranda's cousin, Edgardo Gomez in Pogo, Bauang, La Union. Appellant offered to sell to Gomez a Honda motorcycle with plate No. AC-8801. Gomez expressed willingness to buy the motorcycle but requested that he be shown its registration papers. Appellant, however, could not produce the papers.^[7]

The following day, May 19, appellant again went to Gomez's residence. He offered to leave the motorcycle with Gomez for P5,000.00, with the balance of the purchase price of P8,000.00 payable upon appellant's return with the motorcycle's registration papers. Gomez agreed.^[8]

Thereafter, appellant, Gomez and Miranda went to the office of a certain Atty. Armovit in Bauang, where they executed a document stating that Gomez had purchased a motorcycle from "Willy C. Prado of Banaoang East, Mangaldan, Pangasinan," having given P5,000.00 to appellant as partial payment.^[9] Witnesses to the execution of the document were Miranda and a certain R.B. Buenafe, secretary of Atty. Armovit. Below the phrase "Received by:" appellant affixed his signature.^[10]

On May 25, 1987, appellant again went to see Gomez asking for P700.00 allegedly to use in processing the motorcycle's registration papers.^[11]

On June 10, 1987, appellant informed Gomez that he could no longer produce the papers because these burned.^[12] After conversing for some time, appellant and Gomez went to the house of Miranda. They rode the Honda motorcycle in going there.^[13]

Upon returning later to Gomez's residence, appellant said that he forgot his wallet at Miranda's house. On the pretext of going back to Miranda's house to retrieve his wallet, appellant borrowed the motorcycle. Appellant did not return the motorcycle.^[14]

Police found the motorcycle the following day parked at a gasoline station in Agoo.
[15]

Subsequently, the tricycle's sidecar, already attached to another motorcycle, was found in the possession of Benito Buenavista of Tabora, La Union, who bought the sidecar from appellant on May 15, 1987 for P800.00.[16]

During the investigation of the killing of Samuel Moulic, witness Elpidio Rivera, a tricycle driver, appeared. He asserted that while plying his route - Rabon, San Fabian, Pangasinan to Damotis, Rosario, La Union - he was hired by a man to tow a tricycle to Damotis around noon of May 12, 1987. The tricycle had ran out of gasoline.[17] From Rivera's description of the man, the National Bureau of Investigation made a cartographic sketch.[18] Rivera later identified the man as appellant.

On the basis of the foregoing facts, the trial court convicted the appellant.

In this appeal, appellant raises the following assignment of errors:

I - THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED BASED ON CIRCUMSTANTIAL EVIDENCE;

II - THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED AS PRINCIPAL, AND NOT AS ACCESSORY AFTER THE FACT ONLY; and

III - THAT THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF DEFENSE WITNESS LETICIA ARAOS.[19]

We shall first consider the second and third assigned error.

In his defense, appellant claims that he "just acted as agent of Peter Aquino and George in selling the motorcycle." [20]

He alleges that he was acquainted with Peter and George because they frequented the Trans-Manila Tobacco Corporation in Agoo, La Union where he worked as a security guard. He informed Peter and George that Gomez wanted to buy a motorcycle, and they said that they had a second-hand motorcycle for sale. He subsequently accompanied Peter and George to Gomez's residence. He Received P 150.00 from Aquino for having brokered the sale of the motorcycle to Gomez

The trial court did not give weight and credence to appellant's allegations stating thus:

The contention of the accused that it was Peter Aquino and one George who sold the motorcycle to Edgardo Gomez is not credible because if these persons were the vendors of the motorcycle to Gomez, why should the accused Prado sign the receipt to show the partial payment of P5,000.00, Exhibit 'B'?

The accused denies that 'Exhibit B-1' is his signature. Exhibit 'H-1' and '1-1'[sample signatures of appellant taken during his cross-examination]