

FIRST DIVISION

[G.R. No. 138923, September 04, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANITA AYOLA Y AREVALO AND VALENTIN BARNESO (AT LARGE), ACCUSED, ANITA AYOLA Y AREVALO, ACCUSED-APPELLANT.

D E C I S I O N

PUNO, J.:

Accused-appellant Anita Ayola y Arevalo was convicted by the Regional Trial Court, Branch 69, Silay City, Negros Occidental of the crime of murder for the alleged killing of her common-law husband, Eduardo Irog-Irog (a.k.a. Eddie Irog-Irog). She was sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the victim the amount of one hundred thousand pesos (P100,000.00) representing actual, moral and exemplary damages.^[1] Accused-appellant now appeals from said Decision, raising the following errors:

- "1. The lower court erred seriously in sending and languishing in prison the accused-appellant due to the insufficiency of evidence on the part of the prosecution to inculcate her of the crime charged herein.
2. The court below has committed a grave error in not acquitting her of the crime charged considering the presence of reasonable doubt in her favor."^[2]

Accused-appellant, together with Valentin Barneses who is still at large, were charged under the following information:

"That on or about the 20th day of February, 1994, in the Municipality of Victorias, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the first above-named accused, in company of her co-accused, who is still at large, armed with sharp-pointed and bladed weapons, conspiring, confederating and helping each other, with evident premeditation and treachery and with intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and stab one EDUARDO IROG IROG alias 'EDDIE', thereby inflicting stab wounds upon the latter which caused his death.

CONTRARY TO LAW."^[3]

Accused-appellant pleaded not guilty to the charge during the arraignment.^[4] Trial ensued.

The prosecution presented the testimonies of the following witnesses: SPO1 Rolando Descalsota, Rogelio Somondong, Elvis Laus, Romeo Bacabac, Procula Lopez and Norberto Braca.

SPO1 Rolando Descalsota, a member of the Philippine National Police (PNP), Victorias Police Station, testified that on October 8, 1994, while posted as desk officer, he received a letter^[5] from Valentin Barnesos thru a certain Elmer, the helper of the Chief of Police, Maj. Leonardo Villanueva. Barnesos revealed in the letter written in Hiligaynon that his wife, Anita Ayola, had killed her former partner, Eddie Irog-Irog. The contents of the letter read:

"Dear Lando Descalsota,

I am submitting to you my problem concerning my wife Anita Irog-Irog. It seems that I could no longer keep the secret for the sake of justice because of what she did to me while I was asleep when she attempted twice to kill me, similar to what she did to her husband Eddie Irog-Irog, who is dead now and we buried him near the trunk of the banana plant just behind our house where there is even a hole where we got the soil to cover him and there's a mound near the garbage heap; the distance from the hole is one arm's length because when Anita killed Eddie after she let him sleep. I saw it after coming home from work. I was scared and I forced myself to help her in burying although I was afraid but I could not stand because she also wanted to do the same to me. Justice would be meted to her as there shall be many men who shall be her victim just as the killing on February 20, 1994 at about 9:45 p.m. Before you should do the clearing on the site, you have to apprehend Anita Irog-Irog because she might flee and investigate her about the whereabouts of Eddie and bring her to the place and let her point out and if she refuses to do so, it is up to you to dig in order to bring her to justice, Lando. And the person to whom I gave this letter, give your response because the digging must be immediate to avoid unnecessary delay and you shall be accused by the sister of Eddie Irog-Irog who is a teacher, and regarding this problem, ask regarding Irog-Irog among our neighbors; I have to think seriously before I sent this letter and this concerns me much because I am the husband but I did not have any part in Eddie's death. When I left from work Eddie Irog-Irog was already dead and had wounds on the pit of his stomach and Anita and I talked and asked her why she did it to her husband, when we could have gone away to other places. I also asked her if she also was not afraid if the two of us would go to jail of what she did of which I had nothing to do. She asked me to help her bury near the banana plants because if daylight comes, we shall be surely caught and imprisoned. She told me that her children are already big while our own are still small. And no amount of quarrel about this incident must be known and she threatened me of what she did to her husband, so she would do the same to me; that if she would go straight we can live together but since you are to substitute for me, that is why you are driving me out and I am going to accuse you of what you did to your husband. So I have to leave because you might do it to me. Of course, my children shall be hopeless but I have not

committed any wrong. I have to send this letter and I hope that justice shall be given to Anita Irog-Irog.

The sender: Valentino Varneso"^[6]

After reading the letter, Descalsota forwarded the same to their Station Commander for follow-up. Guided by the information contained in the letter, some police personnel, together with some detainees, went to Barangay Bangga Da-an Banwa to conduct an investigation at the site where the victim was allegedly buried, at the back of Ayola's house, near the banana clumps. The investigating team unearthed the skeletal remains and the t-shirt and short pants belonging to Eddie Irog-Irog. The recovered articles were forwarded to the Intelligence Section of the Victorias Police Station and the outcome of the investigation was recorded in the police blotter. The police apprehended Ayola and detained her for investigation.^[7]

Rogelio Somondong, also a member of the PNP, Victorias Police Station, attested that in the morning of October 8, 1994, SPO1 Descalsota received a letter containing information that Eddie Irog-Irog had been murdered by Anita Ayola. Upon receipt of the information, Somondong, together with SPO3 Silava and others, proceeded to conduct an investigation and to apprehend Ayola. They sought the aid of Barangay Kagawad Romeo Bacabac to lead them to Ayola's house. The occupants of the house, however, told them that Ayola had transferred her residence to Mallorca. Some members of the investigating team proceeded to Mallorca and apprehended Ayola. They brought her to the police station for investigation. The other members of the team, in the meantime, made some digging at the spot described in the letter where the body of Irog-Irog was supposedly buried. The spot was about 15 to 20 meters away from the house of Ayola, near the banana trees. The team found the skull of a man and his skeletal remains. The remains were photographed^[8] before they were placed in a plastic bag and brought to the funeral parlor. The findings were entered in the police blotter. The team also tried to locate Valentin Barneses to no avail.^[9]

Elvis Laus, a resident of Bangga Da-an Banwa, Victorias, Negros Occidental, stated that he was approached by Valentin Barneses who requested him to write for him a letter because he did not know how to read and write. Since Barneses was his friend, he agreed. He wrote exactly what Barneses dictated to him. The letter was addressed to SPO1 Descalsota and it stated that "they killed Eddie Irog-Irog and buried the body at the back of the house." After he read the contents of the letter to Barneses, the latter warned him not to tell anybody about it as he might get involved in the controversy. Laus handed the letter to Barneses who placed the same in an envelope. He did not see Barneses again after that occasion.^[10]

Romeo Bacabac, a Barangay Kagawad at Bangga Da-an Banwa, Victorias, Negros Occidental, testified that he knew Anita Ayola and Eddie Irog-Irog. He also knew Gemma Barneses and Valentin Barneses. Ayola and Irog-Irog were long-time residents of the barangay and were living together as common-law husband and wife. Gemma and Valentin Barneses, on the other hand, have recently moved to their barangay. They came from San Isidro, E. B. Magalona. On January 23, 1994, a complaint was filed with his office that Anita Ayola and Valentin Barneses were having an illicit affair. He conducted an investigation but Ayola denied having a relationship

with Barneso. In February 1994, Gemma Barneso filed another complaint against her husband and Ayola. To resolve the problem, they sought the intervention of the Department of Social Welfare and Development (DSWD). Gemma later decided to leave her husband and sought work in Manila. Barneso then moved to the house of Ayola and Irog-Irog. Bacabac stated that in February 1994, he still saw Irog-Irog at their residence in Bangga Da-an Banwa. At that time, Irog-Irog was already asserting that Barneso should leave their residence. During the latter part of the month, he began to notice the absence of Irog-Irog. When he asked Ayola on the whereabouts of Irog-Irog, she explained that he "was disgusted with his situation, so he went to Cebu." Ayola and Barneso continued to live under one roof until October 1994 when Ayola filed a complaint with his office seeking his aid to eject Barneso from their house. The complaint was settled amicably. After signing the agreement^[11] on October 5, 1994, Barneso packed his things and left. Ayola also left the house and moved to Mallorca. She leased the house to other families. On October 8, 1994, Bacabac was fetched by SPO3 Somondong and other members of Victorias Police Station. They asked him to accompany them to Ayola's house. They, however, found neither Ayola nor Barneso at said house. SPO3 Somondong proceeded to Mallorca to look for Ayola. The other members of the police force, meanwhile, asked Bacabac the location of the well. When they got there, they saw a pit which was being used as garbage site. Bacabac learned from the police that a crime has been committed in that area. The members of the police personnel then started to dig near the banana trees about 5 meters from the back of Ayola's house. The digging was witnessed by Bacabac, Barangay Kagawad Durana, and Sanitary Inspector Jessie Ocampo. After some digging, the police found a human skull. They also recovered a pair of short pants and a t-shirt labelled "Justiniani Machine Shop." The dug remains were brought to the funeral parlor.^[12]

Procula Lopez, the sister of Eddie Irog-Irog, testified that her brother was formerly married to Maria Irog-Irog. After the death of his wife, Eddie Irog-Irog had a relationship with Anita Ayola. They lived together for almost 14 years. Lopez stated that she does not know the present whereabouts of her brother. She saw him last on November 2, 1993 when he visited the house of their mother in Cadiz City. She has not seen him since then. She said that according to Ayola, he went to Cebu on February 20, 1994 to visit their relatives. However, one of their relatives who went to Cebu told her that their relatives in Cebu denied seeing him there. On October 8, 1994, she was informed by her nephew that the skeletal remains of her brother were dug beside the house where Ayola and Irog-Irog used to reside. She went to the funeral parlor to view the remains. She identified them as those of her brother because of the quarter crown on the upper teeth and quarter crown on the lower teeth. After the discovery of the skeletal remains, Lopez went to see Ayola and asked her in the presence of the Chief of Police, Maj. Leonardo Villanueva, on the whereabouts of her brother. Ayola denied having killed Irog-Irog and pointed to Valentin Barneso as the culprit. Lopez further testified that the house where Ayola and Irog-Irog lived was owned by her brother. Ayola, however, sublet the same to two lessees and collected the rentals. Ayola later sold the house to the Barangay Captain of Victorias for P9,000.00. Ayola presently resides in Mallorca, Victorias, Negros Occidental.^[13]

Norberto Braca, a resident of Bangga Da-an Banwa and former co-worker of Eddie Irog-Irog, identified the dug remains and the clothing articles recovered from the back of Ayola's house as belonging to Irog-Irog. He knew that the clothing articles