

SECOND DIVISION

[G.R. No. 237334, August 14, 2019]

**CICL XXX, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND
GLENN REDOQUERIO, RESPONDENTS.**

DECISION

CAGUIOA, J.:^[]**

Before the Court is a Petition for Review on *Certiorari* filed by the accused-appellant CICL XXX assailing the Decision^[1] dated September 5, 2017 of the Court of Appeals (CA) in CA-G.R. CRNo. 39177, which affirmed the Decision^[2] dated September 2, 2016 of Regional Trial Court (RTC) of Quezon City, Branch 94 in Criminal Case No. Q-12-175544, finding CICL XXX guilty beyond reasonable doubt of the crime of Frustrated Homicide.

The Facts

An Information was filed against CICL XXX, the accusatory portion of which reads:

That on or about the 1st day of January 2010 in Quezon City, Philippines, the above-named accused [CICL XXX], a minor, 17 years old, but acting with discernment conspiring together, confederating with CHRISTOPHER PUYO AND JAYJAY NARAG and mutually helping one another, did, then and there willfully, unlawfully and feloniously[,] with intent to kill, attack, assault and employ personal violence upon the person of one GLENN REDOQUERIO by then and there mauling him and hitting him in the head with a piece of stone, thereby inflicting upon him serious and grave wounds, the offender thus performing all the acts of execution that would produce the crime of homicide as a consequence but which nevertheless did not produce it by reason or cause independent of the will of the perpetrator, that is, by the timely and able medical attendance rendered to said GLENN REDOQUERIO, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.^[3]

During the arraignment, CICL XXX pleaded not guilty.^[4] Pre-trial and trial thereafter ensued.

The prosecution presented private complainant Glenn Redoquerio (Redoquerio), Michael de los Santos (de los Santos), and Reginaldo Luague (Luague) as witnesses. The version of the prosecution, as summarized by the RTC, is as follows:

At around 12:30 in the morning on January 1, 2010, private complainant Glenn Redoquerio (Redoquerio) was sent by his mother Lolita Redoquerio

to buy iced tea powder from a store located in VVV, WWW, Quezon City. While he was at the store, Glenn heard somebody say "Yan si Glenn anak ni Purok Leader na humuli sa atin nuon." He looked back and saw CICL XXX, Christopher Puyo (Puyo) and Jayjay Narag (Narag). CICL XXX suddenly poked a gun at the face of Redoquerio. The gun was only about six (6) inches away from Redoquerio's face. CICL XXX pulled the trigger several times but the gun did not fire. CICL XXX then hit (hinataw) the left temple and top of the head of Redoquerio with the gun. Puyo and Narag held the arms of Redoquerio while CICL XXX punched him several times. Puyo then hit the head of Redoquerio with a stone causing the latter to loss (*sic*) consciousness. Redoquerio was in coma for 7 days while he was confined at the East Avenue Medical Center.

Redoquerio incurred expenses for the treatment of his injuries as shown by various receipts.

The incident was witnessed by Michael Delos Santos (Delos Santos) who was buying cigarettes from the store at that time.

During the hearing on June 16, 2014, the prosecution and the defense entered into stipulations on the intended testimony of Reginaldo D. Luague, as follows:

1. That Reginaldo D. Luague is the Administrative Officer I of the East Avenue Medical Center (EAMC)
2. In his official capacity, he has in his custody the medical records of one Glenn Redoquerio, the private complainant in this case, who was admitted at the EAMC from January 1, 2010 to January 13, 2010
3. That he brought with him the following medical records: (a) medical certificate dated March 19, 2010 prepared and signed by Dr. Zorilla marked as Exhibit "F" & "F-1"; (b) the patient data sheet number 679300 of one Glenn Redoquerio y Camba containing the following pertinent data such as the name of the patient, admitting diagnosis, the date of admission and date of discharge as well as the signature of the attending resident physician Dr. Zorilla marked as Exhibit "I" & "I-1"
4. The discharge summary marked as Exhibit "J" & "J-1"
5. The clinical abstract marked as Exhibit "K" & "K-1"
6. The operating room record of one Glenn Redoquerio which were all signed by Dr. Zorilla marked as Exhibit "L" & "L-1"
7. That Reginaldo Luague knows and is familiar with the signature of the attending resident physician Dr. Zorilla
8. That Reginaldo Luague has personal knowledge of the fact that Dr. Zorilla has completed two years internship at the EAMC and is no

longer available to take the witness stand

9. That if and when called to the witness stand, Reginaldo Luague will be able to identify the said documents
10. That he will testify on the existence and due execution of the said documents
11. That Reginaldo Luague cannot testify as to the nature and the gravity of the wound sustained by the private complainant
12. That he cannot testify whether or not the alleged wound sustained by the private complainant is fatal in nature.^[5]

On the other hand, the version of the defense, as also summarized by the RTC, is as follows:

CICL XXX denied the allegations against him. At around 2:00 in the morning on January 1, 2010, he and his family were having a celebration for the New Year in their residence in WWW, Quezon City. They heard a commotion outside and they were told that there was a mauling incident that was happening. His mother YYY went out first and then he, his siblings and their visitors followed to the corner of Cotabato Street. CICL XXX saw Redoquerio and De los Santos mauling Narag. Thereafter, De los Santos ran away while Narag boxed Redoquerio who fell on his back. He did not know what happened next because YYY already called for him and they went home. He and his family were surprised when they were called by the barangay authorities because he was implicated in the mauling of Redoquerio. He surmised that the reason why he was implicated in this case is that Redoquerio did not really know who mauled him.^[6]

Ruling of the RTC

After trial on the merits, in its Decision^[7] dated September 2, 2016, the RTC convicted CICL XXX of the crime of Frustrated Murder. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding CICL XXX guilty beyond reasonable doubt of the crime of frustrated homicide and is sentenced to suffer an indeterminate penalty of 4 months of *arresto mayor* as minimum, to 2 years and 4 months of *prision correccional* as maximum and to pay the costs.

CICL XXX is also liable to pay private complainant Glenn Redoquerio actual damages in the total amount of P18,922.90, P30,000.00 as civil indemnity and P30,000.00 as moral damages.

x x x x

SO ORDERED.^[8]

The RTC held that CICAL XXX's defense of denial could not outweigh the positive testimony and identification made by Redoquerio himself, and the eyewitness de los Santos.

Aggrieved, CICAL XXX appealed to the CA.

Ruling of the CA

In the assailed Decision^[9] dated September 5, 2017, the CA affirmed the RTC's conviction of CICAL XXX.

The CA concluded, based on the evidence presented, that CICAL XXX was in conspiracy with Christopher Puyo (Puyo) and Jayjay Narag (Narag) in inflicting fatal injuries against Redoquerio.^[10] The CA also noted that "the injuries sustained by Redoquerio would have caused his death, if not for the timely medical attention he received."^[11] The CA added that CICAL XXX's bare denial, when juxtaposed with the prosecution witnesses' positive declarations, was not worthy of any credence.^[12] The CA thus affirmed CICAL XXX's conviction for Frustrated Homicide.

CICAL XXX then filed a motion for reconsideration which was later on denied by the CA in a Resolution^[13] dated January 18, 2018.

Hence, the instant appeal.

Issue

For resolution of this Court are the following issues submitted by CICAL XXX:

- (1) Whether the CA erred in convicting CICAL XXX despite the prosecution's failure to show that he acted with discernment; and,
- (2) Whether the CA erred in convicting CICAL XXX for Frustrated Homicide without proof of the extent of the injuries sustained by Redoquerio.

The Court's Ruling

The appeal is meritorious. The Court acquits CICAL XXX for the crime of Frustrated Homicide.

***Whether the
CA erred in
convicting
CICAL XXX
despite the
prosecution's
failure to
show that he
acted with
discernment***

In questioning his conviction, CICAL XXX argues that because he was only seventeen (17) years old at the time he supposedly committed the crime, then he is presumed

to have acted without discernment, and that it was the burden of the prosecution to prove otherwise. CICL XXX then argues that the prosecution was unable to discharge its burden.^[14]

The argument is meritorious.

In the case of *Dorado v. People*,^[15] the Court had the occasion to state that "when a minor above fifteen (15) but below eighteen (18) years old is charged with a crime, **it cannot be presumed that he or she acted with discernment**. During the trial, the prosecution must specifically prove as a separate circumstance that the CICL XXX committed the alleged crime with discernment."^[16] The Court in the same case said:

"The discernment that constitutes an exception to the exemption from criminal liability of a minor x x x who commits an act prohibited by law, is his mental capacity to understand the difference between right and wrong, and such capacity may be known and should be determined by taking into consideration all the facts and circumstances accorded by the records in each case, the very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during the trial."

"The basic reason behind the exempting circumstance is complete absence of intelligence, freedom of action of the offender which is an essential element of a felony either by *dolus* or by *culpa*. Intelligence is the power necessary to determine the morality of human acts to distinguish a licit from an illicit act. On the other hand, discernment is the mental capacity to understand the difference between right and wrong." As earlier stated, the "prosecution is burdened to prove that the accused acted with discernment by evidence of physical appearance, attitude or deportment not only before and during the commission of the act, but also after and during the trial. The surrounding circumstances must demonstrate that the minor knew what he was doing and that it was wrong. Such circumstance includes the gruesome nature of the crime and the minor's cunning and shrewdness." In an earlier case, it was written:

For a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that he acted with discernment, meaning that he knew what he was doing and that it was wrong. Such circumstantial evidence may include the utterances of the minor; his overt acts before, during and after the commission of the crime relative thereto; the nature of the weapon used in the commission of the crime; his attempt to silence a witness; his disposal of evidence or his hiding the *corpus delicti*.

x x x x

Discernment cannot be presumed even if Dorado intended to do away with Ronald. Discernment is different from intent. The distinction was elaborated in *Guevarra v. Almodovar*. Thus:

Going through the written arguments of the parties, the surfacing of a corollary controversy with respect to the first issue raised is evident, that is, whether the term "discernment," as used in Article 12(3) of the