

THIRD DIVISION

[G.R. No. 172110, August 01, 2011]

**MINDA VILLAMOR, APPELLEE, VS. PEOPLE OF THE PHILIPPINES,
APPELLANT.**

[G.R. NO. 181804]

**GLICERIO VIOS, JR., APPELLEE, VS. PEOPLE OF THE
PHILIPPINES, APPELLANT.**

D E C I S I O N

PERALTA, J.:

These two cases were consolidated as they arose from the same factual milieu and assail the same decision of the Court of Appeals.

Minda Villamor and Glicerio Vios, Jr. (petitioners), along with Nicolas Caballero, Ricardo Tormis, and Jeffrey Cutab, were charged with frustrated murder before the Regional Trial Court (RTC) of Lanao del Norte, Branch 4, Iligan City, docketed as Criminal Case No. 4-7450. The accusatory portion of the Amended Information dated February 2, 1999 filed against them reads:

That on or about January 7, 1999, in the City of Iligan, Philippines and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating together and mutually helping each other, by means of treachery, evident premeditation and inconsideration of a price or reward, armed with a bladed weapon and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, stab and wound one Jean V. Jumawan thereby inflicting upon her the following physical injuries, to wit:

Multiple stab wounds, abdomen.

thus performing all the acts of execution which should have produced the crime of Murder as a consequence, but nevertheless did not produce it by reason of causes independent of their will.^[1] (Underscoring in the original)

When arraigned, all the accused pleaded not guilty.

Soon after, accused Ricardo Tormis changed his previous plea to guilty, was sentenced, and then committed to the San Ramon Penal Colony and Farm in Zamboanga City to serve his sentence.^[2] Accused Nicolas Caballero was

subsequently discharged as an accused, as he was utilized as a state witness.^[3] The case against accused Jeffrey Cutab was later dismissed after his Demurrer to Evidence was granted by the RTC.^[4]

The facts established by the evidence of the prosecution, as summarized by the Solicitor General in the People's Brief, are as follows:

About 1:00 P.M. of January 7, 1999, victim Jean Jumawan, a public school teacher, was resting inside her classroom No. 11 at Iligan City East Central School, Tambo, Hinaplanon, Iligan City when Ricardo Tormis and Nicolas Caballero arrived. Immediately thereafter, Caballero stepped out of the classroom while Tormis handed Jumawan an envelope, saying that it came from Minda Villamor and Glicerio Vios, Jr. (TSN, Aug. 18, 1999, p. 7). When Jumawan was about to open the envelope, Tormis suddenly stabbed her successively, hitting the different parts of her body (TSN, *id.*, pp. 7-8). When she parried Tormis' assault, Jumawan's hand likewise sustained injuries. She fell down to the floor. Tormis continued his assault but missed because Jumawan, who was then lying on the floor, kicked him, causing him to stagger backward. Jumawan stood up and shouted for help while Tormis fled (TSN, *id.*, p. 9).

Bloodied and weak, Jumawan was carried and brought to the Mindanao Sanitarium and Hospital where Dr. Anastacio Gayao and Dr. Elfred Solis performed surgery on her major multiple stab wounds x x x. Dr. Gayao issued her a medical certificate (Exh. "B," *rollo*, p. 188), x x x.

On February 4 to 12, 1999, because of her inability to move her wounded right hand fingers, Jumawan likewise underwent surgery under Dr. Agustin Morales at the Cebu Doctors' Hospital, Cebu City. Dr. Morales and Dr. Manuel Juanillo, her other attending physician, issued her a medical certificate (Exh. "C," *rollo*, p. 190), x x x.

x x x Until now, despite medical intervention, [Jumawan] cannot write with the use of her right hand. She now uses her left hand, but still with difficulty (TSN, Aug. 18, 1999, p. 12). She cannot anymore move easily and feels anxious that she is no longer the same person as she used to be.

She was absent from her school work for about four (4) months due to her hospital confinement and rehabilitation. Hence, she received no salary.

Jumawan presented numerous receipts of her medical expenses due to the injuries she sustained (Exhs. "Q" to "Q-14"). x x x In prosecuting this case, Jumawan hired the services of Atty. Providencio Abragan, her private prosecutor, and agreed to pay P30,000.00 as acceptance fee and P1,000.00 as appearance fee.

Prior to the stabbing incident, or on October 27, 1990, when Jumawan, Vios, and Villamor were still teaching colleagues at the Luinab Elementary School, Iligan City, Jumawan and her mother filed an administrative

complaint against Vios before the Department of Education, Culture and Sports (DECS) (TSN, Dec. 7, 1999, p. 12).

x x x x

Likewise, prior to the stabbing incident, Jumawan filed a case for Grave Oral Defamation against Minda Villamor who was thereafter convicted by the Municipal Trial Court in Cities, Branch 5, Iligan City in its Decision dated April 30, 1998 in Case No. (29570-AF) I-5776. On appeal, the Regional Trial Court of Lanao del Norte, Branch 5, Iligan City, in its Order dated March 3, 1999, affirmed the lower court's decision of conviction. The case is now pending review by the Court of Appeals, docketed as CA-G.R. CR No. 23519.

x x x x

Nicolas Caballero x x x who, upon motion by the prosecution, was discharged [as an accused] and utilized as a state witness, affirmed his sworn statement dated January 11, 1999 (Exhs. "A" & "A-1," *rollo*, pp. 186-187).

According to Caballero, Vios and Minda Villamor were the ones who planned the stabbing of Jumawan on January 7, 1999. Upon instruction by Vios and Villamor, he looked for a killer and got Ricardo Tormis to do the job. Unlike Caballero, Vios, Minda Villamor and Jumawan were all from Luinab, Iligan City, while Tormis was a resident of Ladid, Digkilaan, Iligan City. He was promised that Vios and Villamor would take care of him while the killer would be given P10,000.00 to be shouldered equally by the two (TSN, July 26, 1999, pp. 10-11).

The plot was first hatched at about 7:00 P.M. of January 2, 1999 in the house of Vios, with Caballero, Vios, Villamor and Michael Quiapo in attendance (TSN, *ibid.*, p. 10). On January 3, 1999, they met again at the house of Villamor, who told Vios to make it fast because she was very angry with Jumawan (TSN, *id.*, p. 11). When Caballero asked her the reason of their hatred against Jumawan, Vios replied that Jumawan implicated him in the burning of her car, while Villamor stated that she had a case with Jumawan (TSN, *id.*).

At 5:50 P.M. of January 6, 1999, Caballero brought Tormis, who agreed to do the "job," to Vios and Villamor who instructed the former to kill Jumawan saying, "*Kami nay bahala ninyo pagkahuman*" (TSN, *id.*, p. 12).

About 12:45 P.M. of January 7, 1999, Caballero, as planned, escorted Ricardo Tormis to the classroom of Jumawan. When inside, Caballero left Tormis and went back to the school gate where he left the bicycle they used, and waited. Shortly thereafter, Tormis, carrying a knife, went out of Jumawan's classroom. Caballero and Tormis boarded the bicycle and fled to Tambo, Bayug, Iligan City (TSN, *id.*, p. 14).

Both the knife used by Tormis to stab Jumawan and the bicycle used by Caballero and Tormis were provided by Vios, x x x.

x x x in the late afternoon of January 7, 1999, Caballero and Tormis returned to the house of Vios. Villamor was fetched from her house just across the street. Vios and Villamor gave Tormis P1,000.00 and was told to come back for the balance of P9,000.00 (TSN, *id.*, p. 15).

For his participation, Caballero was handed P400.00 and was advised to hide somewhere because he was identified (TSN, *id.*). He took refuge for four (4) days in Marawi City but, on January 11, 1999, he went back to Iligan City where he voluntarily related the incident to the barangay captain, and then in the police precinct, with the assistance of a counsel (Exhs. "A" and "A1," *rollo*, pp. 181-187).^[5]

Petitioners denied having committed the crime charged.

Invoking the defense of alibi, petitioner Glicerio Vios, Jr. claimed that at the time the crime was committed, he was in his classroom conducting classes when he noticed some pupils running, and then a co-teacher informed him that Jean Jumawan was stabbed inside her classroom. It was only on January 11, 1999 when he first met Nicolas Caballero during the investigation of this incident at the prosecutor's office. He did not harbor any ill-feelings towards private complainant Jean Jumawan, since the administrative case she (and her mother) filed against him before the DECS was dismissed for insufficiency of evidence. He contradicted himself, though, when he stated during cross-examination that there was no DECS order dismissing the said administrative case.

For her part, petitioner Minda Villamor testified that she and her brother Ernesto Lura were in Libonan, Bukidnon from January 1, 1999 until dawn of January 4, 1999 to visit their old sick father. She thus could not have met Nicolas Caballero, as he claimed, at petitioner Vios' house in the evening of January 2, 1999 and at her house the following day where they (petitioners) supposedly discussed with him the plan to kill Jean Jumawan. It was only during the investigation of the stabbing incident that she first met Caballero and Ricardo Tormis. She admitted that she and Jean Jumawan had once an altercation which led to the filing of grave oral defamation by Jumawan and her mother against her (Minda Villamor). She denied, however, that she was angry at the two since, she had already forgotten about that case.

Finding credible and trustworthy the positive and categorical testimonies of prosecution witnesses who have no ill motive in testifying against the petitioners, the RTC, by Decision^[6] dated July 7, 2003, convicted the latter of frustrated murder as principals by inducement, thus:

WHEREFORE, premises all considered, the Court finds both accused, Glicerio Vios, Jr. and Minda Villamor, guilty of Frustrated Murder beyond reasonable doubt. Applying the Indeterminate Sentence Law, each of them is hereby meted the penalty of *Prision Mayor* Maximum of 10 years and 1 day, as minimum, to *Reclusion Temporal* Medium of 17 years and 4 months, as maximum.