

## THIRD DIVISION

[ G.R. No. 180380, August 04, 2009 ]

**RAYMUND MADALI AND RODEL MADALI, PETITIONERS, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, petitioners Raymund Madali (Raymund) and Rodel Madali (Rodel) seek the reversal of the 29 August 2007 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR No. 27757; and its 23 October 2007 Resolution<sup>[2]</sup> affirming with modifications the 28 July 2003 Decision<sup>[3]</sup> of the Romblon, Romblon, Regional Trial Court (RTC), Branch 81, in Criminal Case No. 2179, finding petitioners guilty of homicide.

For the death of AAA,<sup>[4]</sup> Raymund, Rodel and a certain Bernardino "Jojo" Maestro (Bernardino) were charged before the RTC with the crime of Murder. The accusatory portion of the Information reads:

That on or about the 13<sup>th</sup> day of April 1999, at around 11:00 o'clock in the evening, in the Barangay XXX, Municipality of Romblon, province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, conspiring, confederating and mutually helping each other, did then and there by means of treachery and with evident premeditation, willfully, unlawfully and feloniously attack, assault, strike with a coconut frond and "llave inglesa" and strangle with a dog chain, one AAA, inflicting upon the latter mortal wounds in different parts of his body which caused his untimely death.<sup>[5]</sup>

During the arraignment on 31 May 2000, the three accused, with the assistance of counsel, pleaded not guilty.<sup>[6]</sup>

On trial, the prosecution presented eight witnesses, namely: (1) Jovencio Musa (Jovencio), 16 years old, the victim's cousin and the alleged lone eyewitness to the killing; (2) Senior Police Officer (SPO) 3 Rogelio Madali, the designated Deputy Chief of Police of the Romblon Police Station; (3) Police Officer (PO) 3 Nicolas Molo, the police investigator assigned to the case; (4) BBB, the mother of the deceased victim; (5) Dr. Carmen Lita P. Calsado, Chief of the Romblon District Hospital, the physician who issued the death certificate of AAA; (6) Emerson de Asis, the alleged companion of witness Jovencio on the night in question, who later became a hostile witness; (7) Michael Manasan, also a companion of witness Jovencio before the killing of the victim occurred; (8) Dr. Floresto Arizala, Jr., a forensic expert from the

National Bureau of Investigation (NBI), Manila, who conducted the examination of the corpse of the victim after the same was exhumed.

As documentary and object evidence, the prosecution offered the following: (1) Exhibit "A" - Affidavit of Jovencio executed on 22 April 1999, detailing the circumstances prior to, during and after the killing of the victim perpetrated by Raymund, Rodel and Bernardino; (2) Exhibit "B" - *Sinumpaang Salaysay* of Jovencio dated 8 May 1999, a recantation of the 22 April 1999 Affidavit; (3) Exhibit "C" - Amended Affidavit of Jovencio dated 28 May 1999, which was substantially the same on material points as the 22 April 1999 Affidavit; (4) Exhibit "D" - Undated Reply Affidavit of Jovencio insisting that the death of the victim was authored by Raymund, Rodel and Bernardino; (5) Exhibit "E" - Joint Affidavit of prosecution witnesses SPO3 Rogelio Madali and a certain SPO2 Teresito M. Sumadsad; (6) Exhibit "F" - the coconut frond recovered by the police officers from the scene of the incident; (7) Exhibit "G" - a dog chain used as part of a strap that was tied to the victim's neck while he was hanging from a tree; (8) Exhibit "H" - the handkerchief that was tied around the victim's neck; (9) Exhibit "I" - empty bottles of gin; (10) Exhibit "J" - cellophanes with rugby; (10) Exhibit "K" - pictures taken from the crime scene including the picture of the body of the victim tied to a tree; (11) Exhibit "L" - Letter of Request for the NBI to conduct an examination of the body of the victim; (12) Exhibits "M" to "O" - NBI routing slips; (14) Exhibit "P" - Death Certificate issued by Dr. Carmen Lita P. Calsado; (15) Exhibit "Q" - Exhumation Report issued by Dr. Floresto P. Arizala, Jr.; (16) Exhibit "R" - the Autopsy Report submitted by Dr. Floresto P. Arizala, Jr.; (17) Exhibit "S" - Sketch of the head of the victim showing the injuries thereon; and (18) Exhibit "T" - handwritten draft of the exhumation report.

Taken together, the evidence offered by the prosecution shows that at around 5:30 in the afternoon of 13 April 1999, BBB, who made a living by selling goods aboard ships docked at the Romblon Pier, and who was constantly assisted by her 15-year-old son AAA, was on a ship plying her wares. AAA, together with Jovencio and Raymund, was there helping his mother.<sup>[7]</sup> Sometime later, Raymund and AAA left the ship. Jovencio stayed a little longer.<sup>[8]</sup>

At about 9:00 p.m. of the same day, Jovencio and another friend named Michael Manasan sat beside the Rizal monument in the Poblacion of Romblon, located between the Roman Catholic Church and Lover's Inn. Michael had just left Jovencio when Raymund, Rodel, Bernardino and the victim AAA arrived. After meandering around, the group proceeded to climb the stairs, atop of which was the reservoir just beside the Romblon National High School. The victim, AAA, ascended first; behind him were Rodel, Raymund, Bernardino and witness Jovencio. As soon as they reached the reservoir, Bernardino blindfolded AAA with the handkerchief of Raymund. Bernardino at once blurted out, "*Join the rugby boys.*" AAA replied, "*That's enough.*" Bernardino then struck AAA thrice with a fresh and hard coconut frond. AAA lost his balance and was made to stand up by Raymund, Rodel and Bernardino. Raymund took his turn clobbering AAA at the back of his thighs with the same coconut frond. AAA wobbled. Before he could recover, he received punches to his head and body from Rodel, who was wearing brass knuckles. The punishments proved too much, as AAA lost consciousness.

Not satisfied, Raymund placed his handkerchief around the neck of AAA, with its

ends tied to a dog chain. With the contraption, the three malefactors pulled the body up a tree.

Stunned at the sight of his cousin being ill-treated, Jovencio could only muster a faint voice saying "**Enough**" every single-time AAA received the painful blows. Bernardino, who seemed to suggest finishing off the victim, remarked, "*Since we're all here, let's get on with it.*" Before leaving the scene, the three assailants warned Jovencio not to reveal the incident to anyone, or he would be next.

Tormented and torn between the desire to come clean and the fear for his life, Jovencio hardly slept that night. He did not divulge the incident to anyone for the next few days. BBB, the victim's mother, was worried when her son did not come home. She started asking relatives whether they had seen her son, but their reply was always in the negative.

It was three days later that a certain Eugenio Murchanto reported to the police authorities about a dead man found in Barangay ZZZ near the Romblon National High School. When the policemen went there, they found the cadaver emitting a foul odor, with maggots crawling all over, hanging from a tree with a handkerchief tied around the neck and a dog chain fastened to the handkerchief. Also found in the area were paraphernalia for inhaling rugby, as well as empty bottles of gin and a coconut frond.

The provincial hospital refused to conduct an autopsy, since AAA's corpse was already decomposing and stank so badly. It was through the intercession of the NBI that the body was eventually exhumed and examined by medico-legal experts. Dr. Floresto P. Arizala, Jr., who conducted the examination, opined that the victim died due to head injuries and not to asphyxiation by hanging. He declared that the victim was already dead when he was tied to the tree, and that the variety of injuries sustained by the victim could be attributed to more than one assailant.

Upon investigation, Jovencio narrated the incident and pointed to Raymund, Rodel and Bernardino as the perpetrators of the crime. Thereafter, Jovencio executed his first affidavit, which was dated 22 April 1999. Because of the threat made on him by a certain Wilson, an uncle of Raymund and Rodel, Jovencio executed a second affidavit dated 8 May 1999, repudiating his first affidavit. On 28 May 1999, Jovencio made his third sworn statement substantially reverting to his first affidavit.

The accused, on the other hand, advanced the defense of denial and alibi. They claimed they had nothing to do with the death of AAA, and that they were nowhere near the *locus criminis* when the killing occurred.

According to Rodel, 16 years old, he was with his father Rodolfo Madali in the house of a friend named Noel Mindoro, located more or less 14 kilometers from the place where the victim was slain where they spent the whole evening until the following morning. Rodel's testimony was corroborated by his father and Noel Mindoro.

On their part, Raymund, 14 years of age, and Bernardino declared that they were in their respective houses on the night in question. Raymund's place was allegedly five kilometers away from the scene of the crime, while Bernardino's was one kilometer away. Bernardino's testimony was supported by his father Bernardino Maestro, Sr. and by his neighbor Diana Mendez. Raymund's friend, Pastor Mario Fajiculay backed

up the former's alibi.

Convinced by the version of the prosecution, the RTC rendered a guilty verdict against the three accused. On account of the prosecution's failure to prove the qualifying circumstances of treachery and evident premeditation, they were only convicted of homicide. The RTC observed that the incident was a sort of initiation, in which the victim voluntarily went along with the perpetrators, not totally unaware that he would be beaten. The RTC also appreciated the privileged mitigating circumstance of minority in favor of the three accused. The dispositive portion of the RTC decision reads:

WHEREFORE, finding the accused BERNARDO (sic) Jojo MAESTRO, JR., RODEL MADALI AND RAYMUND MADALI GUILTY beyond reasonable doubt of the crime of Homicide, they are hereby sentenced to suffer an indeterminate sentence of four (4) years, two (2) months and one (1) day to six (6) years and to indemnify the heirs of AAA jointly and severally the amount of PhP 50,000.00.<sup>[9]</sup>

On 6 August 2003, Bernardino applied for probation. Thus, only Raymund and Rodel elevated their convictions to the Court of Appeals.

In a Decision dated 29 August 2007, the Court of Appeals affirmed the findings of the RTC that Rodel and Raymund killed the victim. However, pursuant to Section 64 of Republic Act No. 9344, otherwise known as the "Juvenile Justice and Welfare Act of 2006," which exempts from criminal liability a minor fifteen (15) years or below at the time of the commission of the offense, Raymund's case was dismissed. Rodel's conviction was sustained, and he was sentenced to six months and one day of *prision correccional* to eight years and one day of *prision mayor*, but the imposition of said penalty was suspended pursuant to Republic Act No. 9344. The judgment provides:

WHEREFORE, the Decision dated July 28, 2003, rendered by the Regional Trial Court of Romblon, Romblon (Branch 81) is Criminal Case No. 2179, is affirmed with the following MODIFICATIONS:

1) Appellant Raymund Madali is declared EXEMPT from criminal liability and the case, insofar as he is concerned is hereby DISMISSED pursuant to R.A. No. 9344.

2) Appellant Rodel Madali is found guilty of homicide, the proper penalty for which is fixed at six (6) months and one (1) day of *prision correccional* to eight (8) years and one (1) day of *prision mayor*. Imposition of this penalty should, however, be SUSPENDED, also pursuant to R.A. No. 9344.

3) In addition to the civil indemnity imposed by the trial court in the amount of Fifty Thousand Pesos (P50,000.00), moral damages in the amount of Fifty Thousand Pesos (P50,000.00) is hereby awarded in favor of the heirs of the victim, AAA.

4) x x x x

5) Finally, this case is referred to the Department of Social Welfare and Development (DWSD) for further proceedings in accordance with R.A. No. 9344.<sup>[10]</sup>

Hence, the instant case.

Petitioners Raymund and Rodel assail both the RTC and the Court of Appeals' findings, which gave weight and credence to the account of the incident given by prosecution witness Jovencio, whose testimony according to them was replete with patent and substantial inconsistencies. First, petitioners set their sights on the conflicting affidavits executed by Jovencio. The first affidavit implicated the three accused in the death of AAA, which was controverted by the second affidavit where Jovencio denied having seen the three accused butcher the victim, while the third affidavit restated the material points in the first affidavit. Petitioners also pointed out the discrepancy between the first and the third affidavits, as the former stated that Jovencio was not seen by the three accused when they executed the victim; whereas in the latter affidavit, Jovencio stated he was with the three when the killing took place. Second, petitioners assert that the testimony of Jovencio relating to the alleged fact that his companions, Michael Manasan and Emerson de Asis, saw the three accused and the deceased during the night in question was debunked by the very testimonies of Michael Manasan and Emerson de Asis wherein they declared otherwise.

Moreover, petitioners contend that both the RTC and the Court of Appeals erred in disbelieving the defense of alibi they interposed, considering that the prosecution failed to muster the required quantum of proof, and that said defense was corroborated by testimonies of the other defense witnesses.

The elemental question in this case is the credibility of the parties and their witnesses.

Well-entrenched is the rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimonies in light of the declarant's demeanor, conduct and position to discriminate between truth and falsehood.<sup>[11]</sup> This is especially true when the trial court's findings have been affirmed by the appellate court, because said findings are generally conclusive and binding upon this Court, unless it be manifestly shown that the lower courts had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.<sup>[12]</sup>

The RTC and the Court of Appeals did not overlook any significant facts in the case.

This Court itself, in its effort to ferret out the truth based on the evidence on records has diligently pored over the transcripts of stenographic notes of this case and, like the RTC, finds the testimony of Jovencio credible. Subjected to the grueling examinations on the witness stand, Jovencio steadfastly pointed to Raymund, Rodel