

EN BANC

[G.R. No. 121177, November 12, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHARLIE ALMOGUERRA AND DANTE ATON, APPELLANTS.

DECISION

PER CURIAM:

The crime involved in the instant case is despicable because innocent lives of three (3) young children were callously taken. This gruesome incident which occurred on the day of the barangay election last May 9, 1994 shocked the quiet barangay of Piña, San Jacinto, Masbate. The grieving folks of that barangay branded the killing of those children as the "Masbate Massacre."

For automatic review is the Decision^[1] dated May 9, 1995 of the Regional Trial Court, Branch 50, San Jacinto, Masbate, in Criminal Case No. 561, declaring Charlie Almoguerra and Dante Aton, appellants, guilty beyond reasonable doubt of the special complex crime of robbery with homicide and sentencing them to suffer the supreme penalty of death. They were also adjudged to pay Florentino and Lily Julaton, parents of the victims, P150,000.00 as civil indemnity and P15,000.00, the amount taken.

The Information^[2] dated June 29, 1994 against appellants is quoted as follows:

"That on or about May 9, 1994, in the morning thereof, at Sitio Nabarira, Barangay Piña, Municipality of San Jacinto, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping each other, with intent to gain by means of violence and/or intimidation of person, did then and there, willfully, unlawfully and feloniously rob the residence of spouses FLORENTINO JULATON and LILY AMOR located at the above-mentioned address by then and there taking away the amount of FIFTEEN THOUSAND PESOS (p15,000.00) in different denominations and coins without the consent of said spouses, to their damage and prejudice in the amount aforementioned and that on the occasion of said Robbery and pursuant to the same conspiracy, herein accused, with intent to kill, by means of treachery, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the persons of GINA JULATON Y AMOR, 14 years old, LYN JULATON, 8 years old, and REY JULATON Y AMOR, 7 years old, by then and there stabbing them with a bladed weapon (machete), hitting them on different parts of their bodies, thereby inflicting upon them serious and mortal wounds which were the direct and immediate cause of their untimely deaths.

"Committed with the aggravating circumstance that the crime is

committed in the dwelling of the offended party.

"CONTRARY TO LAW."

Upon arraignment, appellants, with the assistance of counsel, pleaded not guilty.

During the trial, the prosecution presented the following witnesses: SPO2 Noli Bartolay, Dr. Rosario Mores, Jessie Genova, Jr., Jessie Genova, Sr., Lily Julaton, Lea Amor, Florentino Julaton, Regino Esparraguerra and Dr. Jesus Camposano. Their testimonies are summarized below.

On May 9, 1994, spouses Florentino and Lily Julaton went to the polling precinct at Barangay Piña, San Jacinto, Masbate, to cast their votes in the barangay elections. [3] Before leaving, they instructed their three (3) children, namely: Gina, 14 years old, Lyn, 8 years old and Rey, 7 years old, to watch their store and prevent strangers from entering their house. [4]

At around 9:30 o'clock that same morning, Jessie Genova, Jr. was gathering "*malunggay*" leaves at their farm, [5] about thirty (30) meters away from the Julaton's house, [6] when he heard appellant Dante Aton shouting and inviting him to smoke cigarettes. [7] As he was approaching the house, he noticed that appellant Aton was hiding his right hand behind the door while his left hand was holding a cigarette. [8] Near the door were the bodies of two (2) dead children, Gina and Rey. [9] When appellant Aton uttered "*ada na*" (here he comes), [10] appellant Charlie Almoguerra immediately went down the stairs holding assorted coins at his right hand and a bladed knife or "machete" at his left hand. [11] Appellant Almoguerra then forced him (Jessie Genova, Jr.) to accept the loose coins. [12] Frightened, he received the coins, placed them inside his pocket and ran away. [13] At the moment, he heard them shouting "*kon mamarita ka, papatyon ka namon hasta an iyo familia*" (if you tell somebody, we will kill you and your family). [14] Upon reaching his house, he placed the loose coins inside the cabinet. [15] Meanwhile, he and his father, Jessie Genova, Sr., accompanied spouses Julaton in bringing the dead bodies to Ticao District Hospital at San Jacinto. [16] Upon their return to barangay Piña, he gave the loose coins amounting to P30.75 to his father and told him about the incident. [17] The next day, his father convinced him to report the incident to the police. He then executed a sworn statement. [18]

Meanwhile, upon being informed of the incident by Sonny Amor, spouses Florentino and Lily Julaton immediately returned home. [19] Along the way, they saw appellant Almoguerra on the upper part of the hill near their house. [20] Arriving there, they found all their children dead. [21] They also found that their wooden chest or "*baul*" was forcibly opened and that their cash of P15,000.00 and some loose change were missing. [22]

SPO2 Noli "Socoy" Bartolay of the PNP of San Jacinto, Masbate conducted an investigation. [23] He saw the dead bodies of Gina and Rey inside the kitchen, while that of Lyn in the bedroom. [24] Lily Julaton informed him that their wooden chest or, "*baul*" was forcibly opened and the amount of P15,000.00 kept therein was missing.

[25]

Dr. Rosario Mores examined the victims' bodies. While on the witness stand, she confirmed her three (3) separate Post-Mortem Reports, [26] reproduced below:

"x x x

"According to the hospital record, GINA A. JULATON of Piña, San Jacinto, Masbate was examined in the hospital on May 9, 1994 with the following findings:

1. Stabbed wound, 3 cm., anterior, neck.

"x x x." [27]

"According to the hospital record, LYN A. JULATON of Piña, San Jacinto, Masbate was examined in the hospital on May 9, 1994 with the following findings:

1. Stabbed wound, neck, 5 cm.
2. Stabbed wound, abdomen, 5 cm.
3. Stabbed wound, 3.5 cm., hand, left, thru and thru.
4. Stabbed wound, face, 1 cm., right.

"x x x." [28]

"According to the hospital record, REY A. JULATON of Piña, San Jacinto, Masbate was examined in the hospital on May 9, 1994 with the following findings:

1. Stabbed wound, chest, 5 cm.
2. Stabbed wound, neck, 3 cm.

"x x x." [29]

Dr. Mores declared that all the stab wounds "were probably inflicted or caused by a sharp pointed or edged instrument." [30]

Lea Amor testified that when she visited her cousin, Efren Magdaraog, detained at the municipal building, she saw appellant Almoguerra, who was also detained. When she asked him why he killed the Julaton children, he answered that they refused to sell him cigarettes on credit. [31]

Appellant Aton merely denied the charge. He testified that on that particular date, he was in Barangay Piña to cast his vote in the barangay election but his name was not in the voters' list. So, he decided to go to his brother's residence at Barangay Bagahanglad that same day.

He also testified that he was investigated by the police^[32] and was forced to execute an affidavit on May 12, 1994,^[33] stating that he was with appellant Almoguerra and Efren Magdaraog when they committed the crime, thus:

"x x x

"That last 9 May 1994 at about 9:30 in the morning more or less, I was on the way to barangay Bagahanglad, San Jacinto, Masbate from sitio Guintariban, Piña, San Jacinto, Masbate;

"That during that time and date, I saw Charlie Almoguerra and Efren Magdaraog, both drunk, at the well at sitio Nabarira, Piña, San Jacinto, Masbate about fifty (50) meters away from the house of Florentino `Tinoy' Julaton. Then Charlie Almoguerra told me to go with them to buy cigarette at the store of Florentino Julaton, and so I went with them and when we were already near the house of Florentino Julaton, I heard Efren Magdaraog saying, "May cuarta pa dide" which, in English means, "There is money here", referring to the house of Florentino Julaton. And then when we reached the house of the latter, immediately Charlie Almoguerra and Efren Magdaraog entered the house. Charlie Almoguerra went directly to a young girl about 14 years old and demanded for cigarette, while Efren Magdaraog started searching for the money;

"That because the young girl did not give cigarette to Charlie, he unsheated his machete and stabbed the girl causing her to fall down;

"That at this juncture, Jessie Genova, Jr. alias `Pinoy' arrived and seeing the situation that there were two children dead, he ran away and so because I was already afraid, I also ran away, leaving behind Charlie Almoguerra and Efren Magdaraog.

x x x."

Later, appellant Aton retracted the above affidavit on the ground that it was obtained involuntarily and that he was not assisted by his counsel.^[34] Hence, appellant Almoguerra and Magdaraog were released from detention.^[35]

Subsequently, or on May 20, 1994, he executed another affidavit^[36] with the assistance of his counsel, imputing the commission of the crime only to appellant Almoguerra. Appellant Aton, in the same affidavit, also stated that he was with appellant Almoguerra during the incident; that the latter then intended to buy a cigarette; that he prevented Almoguerra from stabbing the first victim; that Almoguerra also stabbed another girl; and that he (Aton) because of fear ran away. His affidavit is partly reproduced below:

"Last 9 May 1994 at about 9:30 in the morning more or less, I was at sitio Nabarira, Piña, San Jacinto, Masbate. That during that time and date, I saw Charlie Almoguerra at the well about 50 meters away from the house of Florentino `Tinoy' Julaton, and he told me to go with him to buy a cigarette, and when we arrived at the said house, Charlie Almoguerra proceeded inside the house and went directly to a young girl about 14 years old and demanded for a cigarette, and because the girl

did not give a cigarette to Charlie Almoguerra, the latter unsheathed a machete and held the arm of the young girl, and then I glanced at the window and prevented him but he did not obey instead he stabbed the young girl causing her to fall down, then he went to another small girl who was crying and then stabbed her again then I went near the door and this time Jessie Genova, Jr. arrived and when he saw that there were two children already dead, he ran away as fast as he could, then because of fear, I also ran away."

Later, appellant Aton attempted to retract the above affidavit by asserting that he was merely forced and tortured by SPO2 Noli "Socoy" Bartolay to execute and sign it.^[37]

Upon rebuttal, the prosecution presented Dr. Jesus Camposano who testified that appellant Aton could not have been maltreated or tortured by the police; and that when physically examined, he was found to be mentally fit with no signs of apparent injuries on his body.^[38]

For his part, appellant Charlie Almoguerra, together with his mother Josefina and his sister Rodelyn, have a different story to tell.

On May 9, 1994, the day of the incident, at around 7:00 o'clock in the morning, Josefina Almoguerra left her house at Bagabansalan, Bartolabac, San Jacinto and went to the polling precinct at Barangay Piña to cast her vote in the barangay election. ^[39] At that time, her husband, Bienvenido, and her children, **appellant Charlie**, Jerry, Darwin, and Rodelyn, were still asleep.^[40] After casting her vote at about 10:00 o'clock that same morning, she heard that Florentino Julaton's children were killed. ^[41] She then proceeded to their residence and stayed there until 11:00 o'clock noon. She saw the dead bodies.^[42] After informing her family and children about the incident,^[43] her husband and their son, appellant Charlie, went to the Julaton's house where they stayed for only thirty (30) minutes because the latter had a fever^[44] caused by a boil at his left armpit. On May 12, 1994, at around 8:00 o'clock in the evening, appellant was investigated by the police.^[45] On July 4, 1994, ^[46] he was arrested and detained. He admitted that while he was in detention at the Matiporon provincial jail, he escaped with a certain Donggoy and thereafter committed another crime of robbery in Aroroy, Masbate." ^[47]

On May 9, 1995, the trial court rendered a Decision, the dispositive portion of which, reads:

"WHEREFORE, premises considered by proof beyond reasonable doubt, this Court hereby convicts the accused Charlie Almoguerra and Dante Aton for the crime of Robbery with Homicide defined and punished under Article 294 of the Revised Penal Code, as amended by Sec. 9 of R.A. No. 7659, with the presence of aggravating circumstances of treachery and dwelling. Charlie Almoguerra and Dante Aton are both sentenced to suffer the maximum penalty of death and to pay the heirs of the three (3) children the amount of FIFTY THOUSAND (P50,000.00) PESOS each or the total amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS and to return the amount of FIFTEEN THOUSAND (P15,000.00)