

EN BANC

[G.R. No. 139070, May 29, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL LEE, ACCUSED-APPELLANT.

DECISION

PUNO, J.:

On automatic review is the decision of the Regional Trial Court, Caloocan City, Branch 127 in Criminal Case No. C-54012 (98), which sentenced accused-appellant Noel Lee to death for the murder of Joseph Marquez.

On May 27, 1998, an Information was filed against accused-appellant charging him with the crime of murder committed as follows:

“That on or about the 29th day of September 1996, in Kalookan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack and shoot one JOSEPH MARQUEZ y LAGANDI, with the use of a handgun, thereby inflicting upon the latter serious physical injuries, which ultimately caused the victim’s death.

CONTRARY TO LAW.”^[1]

Accused-appellant pleaded not guilty to the charge. At the trial, the prosecution presented the following witnesses: (a) Herminia Marquez, the mother of the victim; (b) Dr. Darwin Corpuz, a resident doctor at the Manila Caloocan University (MCU) Hospital; (c) PO2 Rodelio Ortiz, a police officer who examined the crime scene; and (d) Dr. Rosaline Cosidon, a medico-legal officer of the Philippine National Police (PNP) Crime Laboratory.

The prosecution established the following facts: At 9:00 in the evening of September 29, 1996, Herminia Marquez, 46 years of age and her son, Joseph, 26 years of age, were in the living room of their house located at No. 173 General Evangelista St., Bagong Barrio, Caloocan City. The living room was brightly lit by a circular fluorescent lamp in the ceiling. Outside their house was an alley leading to General Evangelista Street. The alley was bright and bustling with people and activity. There were women sewing garments on one side and on the other was a store catering to customers. In their living room, mother and son were watching a basketball game on television. Herminia was seated on an armchair and the television set was to her left. Across her, Joseph sat on a sofa against the wall and window of their house and the television was to his right. Herminia looked away from the game and casually glanced at her son. To her complete surprise, she saw a hand holding a gun coming out of the open window behind Joseph. She looked up and saw accused-appellant

Noel Lee peering through the window and holding the gun aimed at Joseph. Before she could warn him, Joseph turned his body towards the window, and simultaneously, appellant fired his gun hitting Joseph's head. Joseph slumped on the sofa. Herminia stood up but could not move as accused-appellant fired a second shot at Joseph and three (3) shots more— two hit the sofa and one hit the cement floor. When no more shots were fired, Herminia ran to the window and saw accused-appellant, in a blue *sando*, flee towards the direction of his house. Herminia turned to her son, dragged his body to the door and shouted for help. With the aid of her neighbor and *kumpare*, Herminia brought Joseph to the MCU Hospital where he later died.

Police investigators arrived at the hospital and inquired about the shooting incident. Herminia told them that her son was shot by Noel Lee. From the hospital, Herminia went to the St. Martin Funeral Homes where Joseph's body was brought. Thereafter, she proceeded to the Caloocan City Police Headquarters where she gave her sworn statement about the shooting.^[2]

Upon request of the Caloocan City police, a post-mortem examination was made on Joseph's body. Dr. Rosaline O. Cosidon, a medico-legal officer of the PNP Crime Laboratory Service made the following findings:

“FINDINGS:

Fairly developed, fairly nourished male cadaver in rigor mortis with postmortem lividity at the dependent portions of the body. Conjunctiva are pale, Lips and nailbeds are cyanotic. A needle puncture mark was noted at the dorsum of the right hand.

HEAD:

(1) Gunshot wound, frontal region, measuring 0.5 x 0.5 cm, just right of the anterior midline, 161 cm from heel, with an upbraded collar, measuring 0.2 cm superiorly and laterally, 0.1 cm medially and inferiorly directed posteriorwards, downwards and to the left fracturing the frontal bone, lacerating the brain. A deformed slug was recovered embedded at the left cerebral hemisphere of the brain.

(2) Gunshot wound, occipital region, measuring 0.5 x 0.5 cm, 2 cm left of the posterior midline, 162 cm from heel, with a uniform 0.2 cm upbraded collar, directed slightly anteriorwards, downwards and lateralwards, fracturing the occipital bone and lacerating the brain. A deformed slug was recovered at the left auricular region.

(3) Contusion, right eyebrow, measuring 3 x 2 cm, 3 cm from the anterior midline.

There are subdural and subarachnoidal hemorrhages.

Stomach is ¼ full of partially digested food particles and positive for alcoholic odor.

CONCLUSION:

Cause of death is intracranial hemorrhage as a result of gunshot wounds. Head.”^[3]

At the time of his death, Joseph was employed as driver by the Santos Enterprises Freight Services earning P250.00 a day.^[4] He left behind two children by his live-in partner who are now under his mother’s care and support. Herminia spent approximately P90,000.00 for the funeral and burial expenses of her deceased son. The expenses were supported by receipts^[5] and admitted by the defense.^[6]

Herminia filed a complaint for murder against accused-appellant. The complaint, docketed as I.S. No. 96-3246, was however dismissed for insufficiency of evidence in a Resolution dated December 4, 1996 by Prosecutor Dionisio C. Sison with the approval of Caloocan City Prosecutor Rosauro J. Silverio.^[7] Herminia appealed the order of dismissal to the Secretary of Justice. In a letter dated March 16, 1998, Secretary of Justice Silvestre Bello III reversed and set aside the appealed Resolution and ordered the City Prosecutor of Caloocan City to file an information for murder against the accused-appellant.^[8] Accordingly, the Information was filed and a warrant of arrest issued against accused-appellant on June 8, 1998. On October 16, 1998, appellant was arrested by agents of the National Bureau of Investigation (NBI).

Appellant is a well-known figure in their neighborhood and has several criminal cases pending against him in Caloocan City. He was charged with frustrated homicide in 1984 and attempted murder in 1989.^[9]

For his defense, accused-appellant presented two witnesses: (a) Orlando Bermudez, a neighbor; and (b) himself. He denies the killing of Joseph Marquez. He claims that from 8:00 to 10:00 in the evening of September 29, 1996, he was in his house located at 317 M. de Castro St., Bagong Barrio, Caloocan City. He was having some drinks with his neighbor, Orlando Bermudez, and his driver, Nelson Columba. They were enjoying themselves, drinking and singing with the videoke. Also in the house were his wife, children and household help. At 10:00 P.M., Orlando and Nelson went home and accused-appellant went to sleep. He woke up at 5:30 in the morning of the following day and learned that Joseph Marquez, a neighbor, was shot to death. To appellant’s surprise, he was tagged as Joseph’s killer.^[10]

Accused-appellant had known the victim since childhood and their houses are only two blocks apart. Joseph had a bad reputation in their neighborhood as a thief and drug addict. Six days before his death, on September 23, 1996, accused-appellant caught Joseph inside his car trying to steal his car stereo. Joseph scampered away. As proof of the victim’s bad reputation, appellant presented a letter handwritten by his mother, Herminia, addressed to Mayor Reynaldo Malonzo of Caloocan City, and sent through PO3 Willy Tuazon and his wife, Baby Ruth. In the letter, Herminia was surrendering her son to the Mayor for rehabilitation because he was hooked on shabu, a prohibited drug, and was a thief. Herminia was scared that eventually Joseph might not just steal but kill her and everyone in their household because of his drug habit.^[11]

The accused-appellant likewise explained the two criminal cases filed against him in 1984 and 1989. The information for attempted murder was dismissed as a result of the victim's desistance while in the frustrated homicide case, the real assailant appeared and admitted his crime.^[12]

In a decision dated June 22, 1999, the trial court found accused-appellant guilty and sentenced him to the penalty of death. The court also ordered appellant to pay the heirs of the victim civil indemnity of P50,000.00, actual damages of P90,000.00, moral damages of P60,000.00 and exemplary damages of P50,000.00 and the costs of the suit. Thus:

"WHEREFORE, foregoing premises considered and the prosecution having established beyond an iota of doubt the guilt of accused NOEL LEE of the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code as amended by R.A. 7659, this court, in view of the presence of the generic aggravating circumstance of dwelling and without any mitigating circumstance to offset it, hereby sentences the said accused to suffer the extreme penalty of DEATH; to indemnify the legal heirs of the deceased civil indemnity of P50,000.00; to pay the private complainant actual damages of P90,000.00 plus moral and exemplary damages of P60,000.00 and P50,000.00, respectively; and to pay the costs.

Consistent with the provisions of Section 10, Rule 122 of the 1985 Rules on Criminal Procedure, as amended, let the entire records hereof including the complete transcripts of stenographic notes be forwarded to the Supreme Court for automatic review and judgment, within the reglementary period set forth in said section.

SO ORDERED.^[13]

Hence, this appeal. Before us, accused-appellant assigns the following errors:

I

THE COURT A QUO GRAVELY ERRED IN RELYING HEAVILY ON THE SELF-SERVING AND CONTRADICTORY TESTIMONY OF THE MOTHER OF THE VICTIM, HERMINIA MARQUEZ, WHOSE NARRATION OF THE CHAIN OF OCCURRENCE THAT LED TO THE DEATH OF JOSEPH MARQUEZ WAS BEYOND BELIEF.

II

THE TRIAL COURT GRAVELY ERRED IN HASTILY TAGGING THE ACCUSED-APPELLANT, NOEL LEE, AS THE ASSAILANT BASED MERELY ON THE BIASED DECLARATION OF THE MOTHER WITHOUT CONSIDERING THE SHADY CHARACTER OF THE VICTIM AGAINST WHOM OTHERS MIGHT HAVE AN AXE TO GRIND.

III

THE TRIAL COURT GRAVELY ERRED IN ITS DECISION OF FINDING GUILT ON THE ACCUSED-APPELLANT WITHOUT EVEN RAISING A FINGER IN SATISFYING ITSELF THAT THE PHYSICAL EVIDENCE OBTAINING IN 1996 ARE STILL PREVAILING IN 1999 WHEN THE CASE WAS TRIED ON THE MERITS SO AS TO ESTABLISH THE IDENTITY OF THE ASSAILANT BEYOND DOUBT.

IV

THE COURT A QUO GRIEVOUSLY ERRED IN TREATING WITH LENIENCY HERMINIA MARQUEZ'S VACILLATION WITH RESPECT TO THE "BUTAS NG BINTANA" AS CONTAINED IN HER SWORN STATEMENT AND THE "BUKAS NA BINTANA" AS PER HER REPAIRED TESTIMONY—A SERIOUS PROCEDURAL ANOMALY THAT ASSAULTED THE SUBSTANTIAL RIGHT OF THE ACCUSED-APPELLANT.

V

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE EXTREME PENALTY OF DEATH UPON ACCUSED-APPELLANT DESPITE OBVIOUS REASONABLE DOUBT."^[14]

The assigned errors principally involve the issue of the credibility of Herminia Marquez, the lone prosecution eyewitness. Accused-appellant claims that the trial court should not have accepted Herminia's testimony because it is biased, incredible and inconsistent.

Herminia's testimony on direct examination is as follows:

"x x x

ATTY. OPENA: Now who was your companion, if any, at that time?

WITNESS: Me and my son, Joseph Marquez, and the wife upstairs putting the baby to sleep.

Q: What were you and your son, Joseph, doing then?

A: Watching TV.

Q: Will you please tell us your position, I am referring to you and your son in relation to the television set where you are watching the show.

A: We were facing each other while watching television which is on the left side.

Q: Will you please tell us where exactly was your son, Joseph, seated while watching television?

A: At the end most of the sofa.