

EN BANC

[G.R. No. 131477, April 20, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO CONCEPCION Y NONADO, NELSON TEJERERO Y DELOS SANTOS, JOHN DOE @ "COCOY" AND PETER DOE @ "JERRY," ACCUSED, MARIO CONCEPCION, ACCUSED-APPELLANT.

D E C I S I O N

BUENA, J.:

For automatic review is the decision^[1] dated August 5, 1997 of the Regional Trial Court of San Pedro, Laguna, Branch 31, in Criminal Case No. 9060-B, convicting accused-appellant Mario Concepcion y Nonado of the crime of robbery with homicide, the dispositive portion of which reads:

"WHEREFORE, finding accused Mario Concepcion guilty of the crime of robbery with homicide, the Court hereby sentences said accused to suffer the death penalty, to pay the heirs of Lolita Corpuz y Ocampo the following sums: P50,000 as civil indemnity, P97,588 representing expenses incurred during her wake, funeral and interment, P50,000 as moral damages, and P40,500 representing the value of the stolen articles, and to pay the costs.

"The provincial jail warden of the provincial jail of Laguna in Sta. Cruz, Laguna is hereby directed to immediately release accused Nelson Tejerero from his detention unless he is being held for some other valid and legal grounds."

On January 26, 1995, an information^[2] was filed before the RTC of San Pedro, Laguna charging Mario Concepcion y Nonado, Nelson Tejerero y Delos Santos, John Doe @ "Cocoy," and Peter Doe @ "Jerry," with robbery with homicide committed as follows:

"That on or about October 18, 1994, in the Municipality of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Mario Concepcion y Nonado, Nelson Tejerero y Delos Santos conspiring and confederating with John Doe alias `Cocoy' and Peter Doe alias `Jerry' whose true identities have not yet been fully ascertained and mutually helping one another with intent to gain and without the knowledge and consent of the owner thereof and with the use of force upon things, to wit: by forcibly destroying the door lock of the house to gain entry thereto and once inside, did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Sony component with SN-

105118, two (2) Sony Speakers with SN-1995653, one (1) brown travelling bag, three (3) pieces of lady's belt, assorted jewelries and undetermined amount of cash with a total value of Forty Thousand Five Hundred (P40,500.00), belonging to Lolita Corpuz Ocampo.

"That on the occasion of or by reason of said robbery and in the pursuance of such conspiracy and for the purpose of enabling them to take, steal and carry away said items, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and strike Lolita Corpuz Ocampo with the use of a hard object, thereby inflicting upon her mortal stab wound on her head which directly caused her instantaneous death, to the damage and prejudice of her surviving heirs."

Upon arraignment, accused-appellant Mario Concepcion and accused Nelson Tejerero entered a plea of not guilty.^[3] The two other accused remained at large.

Trial on the merits ensued with the prosecution presenting the following witnesses: Marilou dela Cruz Misleng, daughter of the victim, SPO1 Bertito Almenanza, police investigator, SPO3 Clemente Raymundo, who corroborated the testimony of SPO1 Almenanza, Romulo Bernal, a *barangay tanod*, Nancy Tejerero, Analyn Balmes, Dr. Maximo Reyes and Norma Salo, Medical Technologist. The defense presented accused Nelson Tejerero and accused Mario Concepcion.

The evidence for the prosecution is summarized by the Office of the Solicitor General (OSG) in the Appellee's Brief, which we quote in full and adopt as our own for being fully supported by the records of the case:

"The victim Lolita Corpuz y Ocampo was living alone in the house of her son, Romeo Ocampo in Block 27, Lot 18, Southville Subdivision, Barangay Sto. Tomas, Binan, Laguna (p. 6, tsn, May 24,1995). On October 18, 1994, Lolita Corpuz y Ocampo was found lying dead on her bed and the things in the bedroom were in disarray (pp. 11-12, tsn, May 24, 1995; p. 3, tsn, June 14, 1995).

"The following items were ascertained to be missing.

Item	Value
1. Electric guitar	P 8,000.00
2. Travelling bag	500.00
3. CD component with speaker	30,000.00
4. Wall clock	500.00
5. Jewelry items (and cash)	40,500.00 ^[5] (sic)
^[4]	

"A bloodstained knife and lead pipe were found in the room (pp. 5, tsn,

June 14, 1995, Exhibits B and C).

"At 11:30 a.m. of October 19, 1990, Dr. Maximo Reyes, whose expert testimony was admitted by the defense (p. 2, tsn March 27, 1996), examined the cadaver of the victim. He ascertained the cause of death of the victim as 'traumatic head injuries' (pp. 5, 11, tsn, March 27, 1996). He described his findings as follows:

'Cyanosis, lips and fingernailsbeds: Hemorrhage, meningeal: epdirual subdural and subarachnoidal extensive: Contused abrasions 1.0 x 2.0 cms, left side of chest 0.3 x 7.0 cms. Posterior aspect, left forearm 3.0 x 6.0 cms. Left side of face 1.0 x 1.5 cms. Antero-lateral aspect, right side of neck, Hematomas, periorbital 2.0 x 5.0 cms. Left eye, interstitial covering the scalp, fronto parietal area from left to right including the vertex. Fractures, linear, left parieto-occipital, complete left mandible. Heart and all other internal visceral organs are congested. Stomach 1/3 filled with digested food.' (Exhibit AA,)^[6] "On October 19, 1964, SPO1 Almenanza and SPO3 Raymundo went to the scene and found a grassy and narrow trail leading from the house of the victim to a construction site. While following the trail leading to the construction site, they saw appellant carrying a plastic bag acting suspiciously and leaving a house under construction. Noting bloodstain on his t-shirt and on one of his slippers, they invited appellant to the police station (p. 7, tsn, March 7, 1997). They found that the plastic bag carried by appellant contained soiled clothes and shoes (pp. 3-4, tsn, August 23, 1995; pp. 11-12, tsn, August 7, 1995).

"The police investigators sent the appellant's stained t-shirt and slipper to the PNP Crime Laboratory for examination (p. 12, tsn, August 7, 1995). Dr. Vergara examined these items and found them positive^[7] for human blood (pp. 7-10, tsn, February 26, 1997).

"Appellant, who is from Camarines Sur, stayed with his co-accused Nelson Tejerero and the latter's blind sister Nancy Tejerero in Maligaya I, Barangay San Vicente, San Pedro, Laguna (p. 9, tsn, November 27, 1995). Around 4:00 o'clock in the early morning of October 18, 1994, she heard somebody knocking at the door. Nancy asked who was there. When appellant identified himself, she opened the door. Appellant told her that he was tired after carrying a heavy bag. Appellant placed the bag under her bed and left the house. (pp. 13-14, tsn, November 27, 1995).

"Around 3:00 p.m. of October 18, 1994, Nancy Tejerero felt that somebody again entered the room. She recognized appellant after stating 'Ate (I am)' (p. 18, tsn, November 27, 1995). Appellant said he was taking the CD component he left in the bag to be pawned to Analyn Balmes. When Nancy Tejerero asked what a component is, appellant let her touch the component, the bag and its contents, such as the wall clock and the electric guitar. Appellant instructed Nancy not to tell anyone about the things that he brought to her house (pp. 19-22, tsn, November 27, 1995).

"When Nancy's brother Nelson Tejerero learned that appellant left some things in their house, Tejerero reported the matter to Barangay Tanod Romulo Bernal. Bernal took the items from the house of the Tejereros to the Barangay Hall (p. 23, tsn, November 27, 1995).

"Analyn Balmes turned over the CD component which appellant pawned to her by appellant for P500.00 and which appellant promised to redeem after he had received his salary (pp. 6-9, tsn, January 22, 1996).

The evidence for the defense is summarized in the Brief for the accused-appellant; thus:

"Co-accused Nelson Tejerero testified that in October, 1994 he was residing at Brgy. Nueva, Baybay Riles, San Pedro, Laguna. He had known Mario Concepcion by that time for just a month.

"He surrendered the items because he didn't have anything to do with them. It was Mario who brought these items to their house on October 18, 1994 (the day the victim was killed). He was in the house when the items were delivered by Mario. Mario said the items came from his uncle and he brought these items to Nelson's house because he had no other place to go.

"He (witness) was arrested at home. When he reached the police station, Mario was already there but did not talk to him.

"When the incident happened, he was at home. (TSN, May 17, 1996, pp. 1-10).

"Under cross-examination, he said he came to know Mario because he was the companion of his cousin Jerry Nonado from Quezon.

"He reached only Grade 1. He does not know how to read and write. (TSN, July 29, 1996, pp. 1-7)

"Mario Concepcion denied knowledge of the killing and robbery that took place at the house of Lolita Ocampo on October 18, 1994. That day in the afternoon, he was in the house of Nelson Tejerero at Baybay Riles, San Pedro, Laguna. He was not doing anything at that time; neither was he employed. He is from Bicol, Camarines Sur. The cousin of Nelson who is Jerry Nonado brought him to the house of Nelson because, allegedly there was construction work at Binan available for him.

"He does not recall where he was on October 20, 1994, a Sunday. He denied that on that day he was arrested and was seen with a bloody t-shirt and slippers. He recalls that on the day of his arrest, he was at the construction site where he was waiting for the owner of the house, Bebot delos Santos. Bebot told him that after 3 weeks he should come back. Suddenly, 3 police officers arrived. They asked him if he was Mario

Concepcion and he admitted this. They told him to go with them and when he refused, Raymundo boxed him on the stomach, chest and back. The 2 others joined in. They warned him that if he will not go with them they will kill him. They asked him to board a jeep and inside, they continued boxing him. He was told to admit the crime but he told them he did not know anything about it. They had no warrant of arrest at the time they picked him up.

"He denied the allegations of Nancy Tejerero, the blind sister of his co-accused Nelson.

"He, however, admitted pawning the component to Balmes on October 19, 1994. It belongs to Cocoy, the neighbor of Nelson. Cocoy owed him P200.00 and told him if he wanted to be paid, he should pawn it to Balmes (TSN, August 12, 1996, pp. 1-7).

"The police did not allow him to undergo medical examination (TSN, September 11, 1996, p. 3)

"Under cross-examination, he said he first learned he was an accused in this case when Nelson told him that he had informed the police that he (Mario) was the one who brought those items to the Tejerero house. This he denied.

"He does not know what robbery with homicide is.

"Definitely, he did not kill Lolita Ocampo.

"From October 18, 1994 to October 20, 1994, he was still residing at the house of Nelson. (TSN, September 11, 1996, pp. 3-27)"

In finding herein accused-appellant Mario Concepcion guilty of the crime of robbery with homicide, the trial court found that the following circumstantial evidence leads to the conclusion that accused-appellant Mario Concepcion is the malefactor: 1.) Appellant arrived in the house of the Tejereros at the unholy hour of 4:00 o'clock in the morning following the discovery of the robbery and killing of Lolita Corpuz y Ocampo, leaving a bag containing the following articles: a wall clock, an electric guitar, a component and 3 ladies' belts to Nancy Tejerero, the blind sister of accused Nelson Tejerero, with instructions to deny that he left anything to anyone who will make an inquiry relative thereto; 2.) those articles which were later on recovered by the police were identified by Marilou dela Cruz Misleng as the ones found to be missing on the date of the incident on October 18, 1994 from the house of her mother Lolita Corpuz y Ocampo; 3.) the presence of a narrow trail whose one end leads to the house of the victim, and the other end to a construction site where appellant was found by the police after the incident on a Sunday, a non-working day, (and in fact he admitted that the construction work had stopped for about half a month already due to lack of materials); 4.) the presence of human blood on the t-shirt and slipper he was wearing at that time, and a bag he was carrying containing soiled clothes and shoes. (The trial court observed that if appellant's testimony were to be believed that he was still residing with the Tejereros on that day and went to the construction site merely to wait for Bebot delos Santos, owner of the