

SECOND DIVISION

[G.R. No. 130962, October 05, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE REAPOR Y SAN JUAN, NORBERTO NANALE Y ESPLANA, JOHN DOE, PETER DOE, RICHARD DOE, RICKY DOE, ALVIN DOE, RONALD DOE, STEVEN DOE AND ARNOLD DOE, ACCUSED. JOSE REAPOR Y SAN JUAN, ACCUSED-APPELLANT.

DECISION

QUISUMBING, J.:

On appeal is the decision^[1] dated June 2, 1997, of the Regional Trial Court of Naga City, Branch 28, finding appellant Jose Reapor y San Juan guilty of murder, sentencing him to *reclusion perpetua*, and ordering him together with accused Norberto Nanale y Esplana to pay the surviving heirs of Larry Nivales the amount of P5,320 as actual damages, P50,000 as civil indemnity and P50,000 as moral damages.

The Information against them reads as follows:

The undersigned Assistant City Prosecutor of Naga City accuses JOSE REAPOR Y SAN JUAN, NORBERTO NANALE Y ESPLANA, JOHN DOE, PETER DOE, RICHARD DOE, RICKY DOE, ALVIN DOE, RONALD DOE, STEVEN DOE, and ARNOLD DOE of the crime of MURDER, committed as follows:

That on or about October 1, 1996, in the city of Naga, Philippines and within the jurisdiction of this Honorable Court, the above named accused conspiring, confederating and mutually helping one another, with treachery, with the aid of armed men and employing means to weaken the defense, did then and there willfully, unlawfully, and feloniously and with intent of taking the life of Larry Nivales, attack the latter in the following manner, that is while some of the armed men were holding the arms of the victim, JOSE REAPOR Y SAN JUAN stabbed him several times with a knife, causing to suffer the following wounds, to wit:

1. Stab wound located on the right chest wall, above the right nipple penetrating the upper lobe of the right lung.
2. Superficial incised wound located on the left chest above the left nipple.
3. Stab wound located on the left side of the chest above left nipple penetrating the upper lobe of the left lung.

4. Stab wound located on the left chest below nipple penetrating the lower lobe of the left lung.

5. Stab wound located on the anterior aspect of right leg.

6. Stab wound on the lateral aspect of the left leg.

as evidence by hereto attached Autopsy Report conducted from the victim, Larry Nivales, said wounds being necessarily mortal, thereby causing his death.

CONTRARY TO LAW

Naga City, October 3, 1996.^[2]

On February 17, 1997, Reapor and Nanale were arraigned and they pleaded not guilty.^[3] Thereafter, trial on the merits ensued.

For the prosecution, Elsie Carulla and Napoleon Penolio testified as eyewitnesses to the killing of the victim, Larry Nivales.

Elsie Carulla testified that after watching a dance at the Mac Mariano Elementary School, she saw Larry Nivales on the night he was killed. According to her, she saw Jose Reapor stab Nivales once on the chest, while the victim was being held by three persons. After being wounded by Reapor, Nivales was then stabbed by Norberto Nanale, also on the chest.^[4]

Napoleon Penolio testified that at around 1:20 A.M., on October 1, 1996, he was on his way to the house of Moises Nivales to borrow some tools when he saw the latter's son, Larry, being held by three persons at the intersection in front of the Mac Mariano Elementary School. While he was being held, Jose Reapor approached Larry and stabbed him once on the chest. After Reapor was done, Norberto Nanale came and stabbed Larry also on the chest.^[5]

Dr. Joel Jurado testified that he was the one who conducted an autopsy upon the body of Larry Nivales. He reported that the victim suffered six stab wounds, four of which were inflicted on the chest area while two were on the legs of the victim. Dr. Jurado declared that of these stab wounds, three were fatal^[6] while the rest were merely superficial.^[7] The cause of death was due to loss of blood because of multiple stab wounds.^[8]

Nancy Dumalasa Nivales, the mother of the victim, testified on the expenses and damages she and her family incurred as a result of her son's death.^[9]

SPO4 Leonardo Rañola stated that he was the Station Commander of Sub-station No. 2 at Peñafrancia Avenue, Naga City. On October 1, 1996, Nancy Nivales, mother of the victim, went to their office with two persons whom he remembered to be Tomines and Amaro. They reported that Mrs. Nivales' son was stabbed and the assailants, whom they identified to be appellants Jose Reapor and Norberto Nanale,

were still at large. SPO4 Rañola accompanied Mrs. Nivales and her companion to the houses of Jose Reapor and Norberto Nanale. The latter were brought to the police headquarters for investigation.^[10]

The defense presented Raul Rosales, an elected *barangay kagawad* of Barangay Balatas, Naga City. He testified that there was no dance held inside the compound of Mac Mariano Elementary School during the evening of September 30, 1996. The only dance that night was held along Molave St., which is 100 meters from the said school.^[11]

Norberto Nanale denied stabbing Larry Nivales or knowing Jose Reapor prior to October 1, 1996. He alleged that he was at home from 9:00 P.M. of September 30, 1996 until 6:00 A.M. the following morning.^[12]

Jesus Almiro, who testified for the defense, said that there was no dance inside the Mac Mariano Elementary School in the evening of September 30, 1996. Later, however, he declared that he was not absolutely certain that there was no dance inside the school after 7:30 P.M.. He said he was already home by this time and could not see what was going on inside the school compound.^[13]

Jose Reapor testified that he was at his brother's residence during the night of the killing. He denied the accusation against him.^[14]

Eduviges Evangelista Reapor testified that she is the sister-in-law of appellant and that the latter was with them in their house at Zone 6, Balatas, Naga City in the evening of September 30, 1996 until the following morning.^[15]

On June 2, 1997, the trial court rendered judgment finding the accused guilty of the crime of murder. The dispositive portion of said decision reads:

WHEREFORE, in view of all the foregoing findings that the guilt of accused Jose Reapor y San Juan and Norberto Nanale y Esplana of the crime of murder of which they are presently charged has been proven beyond reasonable doubt, judgment is hereby rendered whereby accused Jose Reapor y San Juan, in the absence of any mitigating or aggravating circumstance, is hereby sentenced to suffer the penalty of reclusion perpetua. Accused Norberto Nanale who was fifteen (15) years old when the crime of which he is presently charged was committed, and therefore entitled to the privilege mitigating circumstance of minority and applying the Indeterminate Sentence Law, is hereby sentence to suffer the penalty of imprisonment of SIX (6) Years and ONE (1) Day to TWELVE (12) years of prision mayor; ordering both accused to pay the surviving heirs of the deceased, Larry Nivales the amount of FIVE THOUSAND THREE HUNDRED TWENTY (P5,320.00) PESOS representing actual damages for expenses incurred in connection with the death of Larry Nivales; FIFTY THOUSAND (P50,000.00) PESOS for the death of Larry Nivales; and FIFTY THOUSAND (P50,000.00) PESOS for moral damages. With costs de oficio.

SO ORDERED.

Jose Reapor appealed. The verdict against Norberto Nanale became final and executory, since he did not appeal.

Before us, appellant Jose Reapor raises the lone assignment of error that:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT AND EVENTUALLY ORDERING HIM TO PAY THE SURVIVING HEIRS OF THE VICTIM ACTUAL AND MORAL DAMAGES

Appellant seeks to discredit the credibility of the two eyewitnesses who testified for the prosecution. He points out certain "improbabilities" and "inconsistencies" in their testimonies which, according to the appellant, point to the conclusion that these witnesses had been rehearsed or paid.

According to him, Elsie Carulla's testimony that she saw the stabbing incident after she watched a dance held "inside" the Mac Mariano Elementary School is false. He insists that there was no such dance. Raul Rosales and Jesus Almira attested that no such event took place inside the school. Appellant likewise questions Elsie Carulla's identification of him as one of the offenders. He points out that she could not categorically identify who the offender was since she admitted that she reported for work at 8:00 A.M. and went home at 8:00 in the evening. According to appellant, he lived at Zone 6, Barangay Balatas, Naga City, about two (2) kilometers from the place of the incident. Appellant says that in making identifications of the accused, Elsie Carulla was aided by somebody.^[16] He adds that upon witnessing a person being attacked, the natural reaction of a woman is fright, and fear would prevent her from correctly identifying the attackers.

Appellant also contends that the testimony of Napoleon Penolio was contrary to human experience and unworthy of belief. The natural and spontaneous reaction of one who witnessed the stabbing, according to appellant, would be to immediately go to the house of the victim, whom Penolio considered a friend, to report the incident. But Penolio waited until the afternoon of October 1, 1996. This delay, says the appellant, strongly suggests that Penolio did not really see the crime as it unfolded. Appellant adds that Penolio could not have identified him as one of those who attacked Larry Nivales since a frightened witness could not possibly have identified anyone. Appellant suggests that Penolio was prompted by the victim's relative^[17] to point to him as the assailant.

For the State, the Office of the Solicitor General (OSG) urges that the testimonies of the prosecution witnesses should be upheld and afforded full faith and credence and the judgment of the trial court affirmed. However, the OSG recommends that the maximum of Norberto Nanale's indeterminate sentence be corrected from "twelve years (12) of *prision mayor*" to "fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*". It also recommends that the award of P50,000 as civil indemnity by the trial court be increased^[18] to P75,000 pursuant to this Court's ruling in *People vs. Victor*, 292 SCRA 186 (1998).

After carefully considering the records and the submissions of the parties, we find Jose Reapor's appeal unmeritorious. Appellant asserts that Carulla's testimony