

EN BANC

[G.R. No. 130281, December 15, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIX CELESTE, ACCUSED-APPELLANT.

DECISION

QUISUMBING, J.:

On automatic review is the decision dated August 4, 1997 of the Regional Trial Court of Pasay City, Branch 114, in Criminal Case No. 96-9270, convicting appellant Felix Celeste for murder and imposing on him the death penalty.

Appellant Felix Celeste y Sison and one John Doe were charged with murder allegedly committed as follows:

"That on or about the 20th day of September 1996, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, Felix Celeste y Sison and John Doe, conspiring and confederating together and mutually helping one another did then and there willfully, unlawfully and feloniously with deliberate intent to kill and with evident premeditation and treachery, attack, assault and use personal violence upon the person of Roy Lique y Delinla by hitting him on the head with a steel pipe causing upon the latter a mortal wound which caused his instantaneous death.

Contrary to law."^[1]

While John Doe remained at large, appellant on arraignment pleaded not guilty. Trial on the merits then ensued.

The prosecution presented five (5) witnesses, namely: 1) Angelito Catalan, a tricycle driver who witnessed the incident; 2) Rosemarie Bebing, floor manager of "Suvilla Sing-Along and Restaurant" located at Pasay City Rotonda where the victim used to deliver ice; 3) SPO2 Antonio Conlu, Mobile Patrol Division, Pasay City Police; 4) Marlon Lique, elder brother of the victim; and 5) Dr. Ludovino Lagat, NBI Medico-Legal Officer, who conducted the *post mortem* examination of the cadaver of the victim.

Angelito Catalan testified that at about 11:20 P.M. on September 20, 1996 he was driving his pedicab with two women passengers aboard along Protacio Street toward Taft Avenue in Pasay City. He saw a man, later identified as appellant Felix Celeste, block the pedicab driven by Roy Lique. Appellant then grabbed the handlebars of the bicycle, effectively stopping the pedicab. Without warning, another man

approached Roy from behind and struck him at the back of his head with a lead pipe. Roy fell on the sidecar of his pedicab while appellant was still in front of the former's pedicab. The pipe-wielding man then ran away. Catalan approached and asked appellant about the victim and the latter responded "*Pinalo niya*". Catalan knew that the person who struck Roy and who ran away was with appellant at the time of the incident. Fearful of being involved, his passengers then urged Catalan to bring them to their destination. Shortly, Catalan returned to the place where the mauling happened and found the victim slumped on his pedicab. He reported the incident to a passing police car. The police patrol proceeded to Protacio Street and found the victim already dead. Catalan did not tell the policemen what he saw because at that time the latter were busy interviewing a *balut* vendor who claimed to have witnessed the incident. On September 23, 1996, upon learning that no witness could be found, Catalan reported what he saw to SPO2 Antonio Conlu of the Pasay City Police. At the station, he identified appellant in a police line-up.

SPO2 Antonio Conlu testified that while he was at the Pasay City Police Station at about 1:30 A.M. on September 21, 1996, he received a telephone call for police assistance from Rosemarie Bebing of the Suvilla Sing-Along and Restaurant located at the Rotonda, Pasay City. She reported that appellant, who was drunk at the time, was making trouble in the restaurant. She named appellant as the suspect in the mauling incident of September 19, 1996 in the restaurant premises. SPO2 Conlu, with other police officers, proceeded to the restaurant and invited appellant for investigation. They also talked to Bebing. At the police station, appellant was apprised of his constitutional rights. Since appellant's lawyer failed to appear at the inquest, Celeste was temporarily placed in the safety cell of the police station. At about 9:30 P.M. of September 21, 1996, Bebing and one Juliet Bariuan, a guest relations officer (GRO) of the Suvilla Sing-Along and Restaurant, arrived at the police station and voluntarily gave their statements. On September 23, 1996, SPO2 Conlu asked Catalan to identify appellant in a police line-up. He took Catalan's sworn statement. The same day, he also asked Bebing to give her sworn statement for the second time and identify Celeste.

Rosemarie Bebing testified she reported for work as floor manager of the Suvilla Sing-Along and Restaurant on September 19, 1996. She knew appellant because the latter delivered ice to the restaurant until his services were discontinued. She also knew Roy Lique who replaced appellant as delivery boy of the ice supplier. Roy had been delivering ice to the restaurant for just two weeks before his death. On September 19, 1996 at about 11:00 P.M., Bebing met Celeste at the club. He was complaining about his being replaced. Bebing told him to talk to the owner, Margarita Sureta, but she was already sleeping at that time and nobody wanted to awaken her. Bebing then went out of the restaurant and she was followed by Celeste with a companion. At that moment, Roy came in. Suddenly Celeste struck Roy at the back of the head causing him to reel forward, almost hitting the ground. Had he not covered himself with his hands, he could have fallen with the next four successive blows by Celeste. Bebing intervened. Celeste was pacified but he angrily threatened Roy, "*Dadanak ang dugo sa lugar na ito pag magpatuloy kang magdeliver ng yelo*". Lique asked Bebing who Celeste was and she just told Roy to leave. Roy was about to mount his delivery pedicab, when Celeste kicked the pedicab very hard prompting Bebing to signal Roy to immediately leave after handing him the payment of the ice. Celeste was still mad and she heard him say, "*Hindi ninyo alam ang binabanga ninyo*". According to Bebing, the incident was witnessed by many people in the club including GRO Juliet Bariuan.

The following day, September 20, 1996, Bebing was again in Suvilla Sing-Along and Restaurant at about 11:00 P.M. She saw Roy deliver ice and leave immediately in the direction of Taft Avenue towards Protacio Street. The next day, when she reported again for work, the restaurant owner and the cashier informed her that Roy was killed the night before. At about 1:00 A.M., she went to the Pasay City Police Station and gave her statement to SPO2 Conlu about the mauling incident on September 19, 1996. At about 2:00 A.M. on September 23, 1996, she went to the Pasay City Police Station to give her statement a second time and identify appellant Felix Celeste in a police line-up.

Marlon Lique, elder brother of the victim, testified that Roy was the second to the youngest of the seven (7) children of Jose and Flor Lique of Monreal, Masbate. Roy was sixteen years old and a high school graduate when he came to Manila to work and study, six (6) months before the incident. He had just started working as ice delivery boy. Marlon claimed that the Liques spent P11,000.00 for funeral expenses and P10,000.00 for other expenses, including the transportation of Roy's body to Monreal, Masbate, where he was buried on October 1, 1996. They incurred additional expenses amounting to of P15,000.00 for Roy's wake in Monreal. He placed the moral damages suffered by the family at P300,000.00.

Dr. Ludovino Lagat, medico-legal officer of the National Bureau of Investigation, testified that on September 21, 1996 he conducted a *post-mortem* examination of the victim's cadaver. He found that Roy sustained injuries on the arm and shoulder; a contused abrasion in the infra-auricular area; and a lacerated wound 4 cm. by 3 cm. in the occipital area at the back of the head. This fatal wound was inflicted by a hard object from behind the victim. The cause of death was traumatic head injuries causing subdural hemorrhage.

The first witness for the defense was Roberto Remot, a security guard of EDSA-Taft Center, where appellant's stall is located. He testified that the Security Office of EDSA-Taft Center is only 15 meters away from the Celeste's stall. Remot declared that Gates 1 to 6 of the Center close for the evening at 10:00 P.M. Gate No. 7 is left open as exit gate of the building tenants and their helpers. On September 20, 1996, at about 10:00 P.M., he was near the security office and saw appellant in his stall. At about 10:15 P.M. Celeste went up to the sleeping quarters of the stall. Two hours later, he saw Celeste under the stall. He did not see Celeste go in or out of Gate 7. Remot also testified that he reported for work on September 21, 1996 at 8:00 P.M. and saw Celeste in his stall from 8:00 to 10:00 P.M..

Alfredo Reyes Gumilao, a member of the Civilian Volunteers Organization (CVO) of Barangay 104, Zone 11, Pasay City, testified that on September 20, 1996 at 9:00 to 10:00 P.M., he was driving the *barangay* jeep on his way to the Cuneta Astrodome. When he passed Protacio Street, near the corner of Taft Avenue, he was informed that a pedicab with a dead man in it was causing traffic. He approached the pedicab and saw a body slumped face down on the right side towards the sidecar. He got a flashlight and saw a pool of blood on the pavement near where the head was leaning. Pablo Castillo, another CVO member, helped him load the person in his jeep as ordered by the police. They brought the victim to the Pasay City General Hospital where the person was later pronounced dead on arrival.

Appellant was the last witness. He denied any involvement in the incident. During

cross-examination, he admitted that Suvilla Sing-Along Restaurant was once his customer but he had not been there for sometime. On September 21, 1996 he was about to cross the street when he was accosted by two police officers. They grabbed him by the neck, forced him to ride in their jeep, and brought him to the Pasay City Police Station where he was immediately placed inside a "baby cell". During the alleged police line-up, Catalan could not point to him as the person who killed Roy. It was only after Police Officer Palma went inside and pointed to the accused that Catalan pointed at him. He denies there was any line-up where Rosemarie Bebing had identified him.

After trial, appellant was found guilty and sentenced thus:

WHEREFORE, finding the evidence sufficient in quantum to convict, the Court hereby finds the accused Felix Celeste GUILTY beyond reasonable doubt, as principal, for the crime of murder defined and penalized under Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 which decrees that this Court impose, as it hereby imposes, the mandatory penalty of death. The accused is likewise ordered to pay the private complainant at least P50,000.00 for the death of Roy Lique, actual expenses in the amount of P26,000.00 and moral/exemplary damages in the amount of P200,000.00.

Considering that the sentence imposed is the penalty of death, let the records of this case be elevated within twenty (20) days but not earlier than fifteen (15) days to the Honorable Supreme Court for automatic review and judgment pursuant to Section 10, Rule 122 of the Revised Rules of Court.

Let mittimus issue immediately after promulgation of this judgment.

SO ORDERED.^[2]

Hence, this automatic review, of the trial court's decision, focusing on the errors alleged by appellant:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED DESPITE THE INSUFFICIENCY OF EVIDENCE TO WARRANT CONVICTION BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THERE WAS TREACHERY AND EVIDENT PREMEDITATION IN THE KILLING OF THE VICTIM.

III