

THIRD DIVISION

[G.R. No. 128287, February 02, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RIZAL
ESPIRITU Y KINAO, ACCUSED-APPELLANT.**

DECISION

PANGANIBAN, J.:

A counsel-assisted, voluntary confession of guilt is evidence of strong persuasive weight. It becomes overwhelming when it is corroborated by independent prosecution evidence pointing to appellant as the perpetrator of a killing.

The Case

Rizal Espiritu y Kinao appeals the Decision^[1] of the Regional Trial Court, Branch 6, Baguio City, convicting him of murder.

Before the Regional Trial Court of Baguio City on May 3, 1996, Prosecutor II Romeo N. Carbonell filed against Rizal Espiritu, along with two others -- Gerald Alicoy and Fred Malicdan -- an Information which reads: ^[2]

"The undersigned accuses GERALD ALICOY Y SIANO as principal by inducement and FRED MALICDAN Y MILLER and RIZAL ESPIRITU Y KINAO as principal by direct participation [in] the crime of MURDER, committed as follows:

"That on or about the 8th day of September, 1995, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery and evident prem[e]ditation, after the accused GERALD ALICOY Y SIANO offered the sum of P20,000.00 to the accused FRED MALICDAN Y MILLER and RIZAL ESPIRITU Y KINAO for them to kill SATO SANAD^[3] Y DOGA-ONG, the accused Fred Malicdan and Rizal Espiritu, did then and there willfully, unlawfully and feloniously attack, assault and stab Sato Sanad with a sharp pointed instrument several times on his back inflicting on said Sato Sanad several stab wounds at his back as a result of which said Sato Sanad died.

"The commission of the offense is qualified by evident premeditation in that the three (3) accused planned the killing where the accused Gerald Alicoy offered to the accused Fred Malicdan and Rizal Espiritu the sum of P20,000.00 for them to kill Sato Sanad and the accused Fred Malicdan and Rizal Espiritu carried out the plan and killed Sato Sanad.

"The commission of the offense is likewise qualified by treachery in that

the accused Rizal Espiritu suddenly held and locked the neck of Sato Sanad with his hands and thereafter the accused Fred Malicdan stabbed Sato Sanad several times on his back and the accused adopted that mode of attack to ensure that the deceased could not put up a defense."

[4]

When arraigned on May 14, 1996,^[5] Espiritu^[6] and his co-accused^[7] entered a plea of not guilty. After the prosecution presented its evidence, a joint Motion to Dismiss^[8] was filed by the counsels of Alicoy and Malicdan, namely, Jose M. Molintas and Fred Bagbagen. On August 20, 1996, the trial court issued an Order^[9] acquitting the two accused for failure of the prosecution to prove their guilt beyond reasonable doubt. The trial of Appellant Espiritu, however, continued.

On October 30, 1996, the court *a quo* rendered its Decision and the dispositive portion thereof reads:

"WHEREFORE, premises considered, the Court [f]inds accused Rizal Espiritu y Kinao guilty beyond reasonable doubt of the crime of murder as defined under Article 248 of the Revised Penal Code as amended by Section 6 of Republic Act 7659 as charged in the Information, and hereby sentences him to suffer the penalty of reclusion perpetua; to indemnify the heirs of Sato Sannad the sum of P50,000.00 for his death; P200,000.00 as moral damages; and P50,000.00 as exemplary damages, all indemnifications are without subsidiary imprisonment in case of insolvency; and to pay the costs,

"In the service of his sentence, accused Rizal Espiritu is entitled to be credited 4/5 of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code."^[10]

Hence, this appeal direct to this Court.^[11]

The Facts **Version of the Prosecution**

In the 35-page Brief for the Appellee,^[12] the solicitor general narrated the prosecution's version of the facts as follows:

"Between 7:30 and 8:00 o'clock in the evening of September 8, 1995, Henry Saclangan saw Sato Sanad conversing with appellant Rizal Espiritu in front of Starlight Bakery located at Sunflower Street, Navy Base Subdivision, Baguio City. Later, he saw Sato Sanad and appellant, who placed his arm around the former's shoulder, walk.

"At about 9:00 o'clock in that evening, Jeffrey Bernabe was in his house at Sunflower St., Navy Base Subdivision, Baguio City conversing with friends. Momentarily, he heard someone outside shouting for help. When he went out, Jeffrey Bernabe saw a man, who turned out to be Sato Sanad, wounded and bleeding. Other people came out of their houses but no one dared to help Sato Sanad who lay prostrate on the ground. Jeffrey Bernabe went back to his house and boarded his truck. Accompanied by his friends and helpers, Jeffrey Bernabe brought Sato

Sanad to the Baguio General Hospital where he died on arrival.

"At about 9:00 o'clock that same evening, Police Officer Johnson Ayagen of the Pacdal Police Substation, Baguio City, received a report from the base operator of a fight that occurred in Sunflower Street. He was ordered to immediately proceed to the place. Along the way, PO Ayagen met an Isuzu Elf Truck whose driver flagged him down. He was informed by Jeffrey Bernabe that he and his companions were bringing a wounded person to the hospital. PO Ayagen told the driver, Jeffrey Bernabe, to proceed to the hospital and to wait for him there as he would first proceed to the crime scene. The police met nobody at the crime scene. What they found were bloodstains on the ground; also, a bloodied, perforated maong jacket and false dentures. When they arrived at the hospital, Jeffrey Bernabe informed them that the victim was already dead.

"Dr. Vladimir Villaseñor of the PNP Crime Laboratory Service, Camp Bado Dangwa, Benguet, conducted an autopsy on the cadaver of Sato Sanad. Per Medico-Legal Report issued by Dr. Villaseñor,^[13] the victim sustained the following injuries, to wit:

Trunk and Extremities:

1. Stab wound, right suprascapular region, measuring 1.5 x 0.5cm, 5cm from the posterior midline, directed anteriorwards, downwards, and medialwards, lacerating the underlying soft tissues and muscles.
2. Stab wound, right scapular region, measuring 1.2 x 0.4cm, 6cms from the posterior midline, directed anteriorwards, downwards and medialwards, lacerating soft tissues and muscles.
3. Stab wound, right scapular region, measuring 1.5 x 0.6cm, 7cms from the posterior midline, directed anteriorwards, downwards and medialwards, lacerating soft tissues and muscles.
4. Stab wound, right infrascapular region, measuring 1.8 x 0.9cm, 14cms from the posterior midline 10cms deep, directed anteriorwards, slightly downwards and medialwards, passing through the 9th right intercostal space, lacerating the lower lobe of the right lung.
5. Stab wound, right lumbar region, measuring 1.8 x 0.8cm, 12cms from the posterior midline.
6. Stab wound, right para-vertebral region, measuring 1.6 x 0.6cm, 2cms from the posterior midline.
7. Stab wound, right para-vertebral region, measuring 1.8 x 1cm, 19cms from the posterior midline, 10cms deep,

directed anteriorwards, slightly upwards and medialwards, passing through the 8th right intercostal space, lacerating the lower lobe of the right lung.

8. Stab wound, left suprascapular region, measuring 1.5 x 0.5cm, 9cms from the posterior midline, 8cms deep, directed anteriorwards, downwards and medialwards, passing through the 2nd left intercostal space, lacerating the upper lobe of the left lung.
9. Stab wound, left suprascapular region, measuring 1.5 x 0.5cm, 8cms from the posterior midline, 9cms deep, directed anteriorwards, downwards and medialwards, passing through the 6th left intercostal space, lacerating the lower lobe of the left lung.
10. Stab wound, left intrascapular region, measuring 0.5 x 0.3cm, 14cms from the posterior midline.
11. Stab wound, left infrascapular region, measuring 1.7 x 0.6cm, 6cms from the posterior midline, 8cms deep, directed anteriorwards, slightly upwards and medialwards, fracturing the 9th left thoracic rib, lacerating the left lower lobe of the left lung.
12. Stab wound, left para-vertebral region, measuring 1.5 x 0.5cm, 2cms from the posterior midlin[e], 8.5cms deep, directed posteriorwards, slightly upwards and medialwards, passing through the 9th left intercostal space, lacerating the lower lobe of the left lung.
13. Stab wound, left lumbar region, measuring 2.5 x 0.8cm, .2cm from the posterior midline, directed anteriorwards, slightly downwards and medialwards, lacerating the underlying soft tissues and muscles.

CONCLUSION:

Cause of Death: Hemorrhage as a result of multiple stab wounds on the body.

"At the wake of Sato Sanad, Reyvo Sanad, his son, was informed by his cousin, Nestor Kinao, that appellant Rizal Espiritu, a cousin of Nestor mentioned something about the killing of his father. Together, they sought out appellant. They found him in the company of his uncle, Alfredo Kinao, who was also related to the wife of Sato Sanad. When confronted, appellant was persuaded to relate his participation in the killing of Sato Sanad. Appellant eventually confessed to being one of the assailants of Sato Sanad. Then, all those present agreed to meet the following day at the Baguio City Police where appellant would surrender.

"The following day, or on September 20, 1995, appellant, accompanied

by Alfredo Kiniao, met with the victim's relatives at the Baguio City Police Station. However, the day before their meeting, Alfredo Kiniao had talked to Atty. Daniel Mangallay in his office and asked him to be appellant's counsel. Atty. Mangallay thus went to the Baguio City Police Station where he met the others. Atty. Mangallay conferred with appellant regarding the case and agreed to represent him.

"Prior to the investigation, Atty. Mangallay informed the police that appellant would voluntarily give his statement. Police Officer Wilfredo Cabanayan, who was assigned to take appellant's statements, apprised the latter, in the presence of his lawyer, of his constitutional rights to remain silent, to have competent and independent counsel of his choice and his right against self-incrimination. After Atty. Mangallay, himself, had explained to appellant his constitutional rights, the latter signified his willingness and readiness to give his statement. Police Officer Cabanayan propounded his questions in Ilocano to which appellant replied in the same dialect. The questions and answers were then translated into English.

"Thereafter, appellant and Atty. Mangallay affixed their respective signatures on the sworn statement. During the proceeding, Atty. Mangallay was at all times assisting appellant. x x x.

"x x x x x x x x

"Thereafter, appellant, accompanied by Atty. Mangallay and Police Officer Cabanayan, was presented before Prosecutor Dizon for personal examination. Appellant declared that he understood his statement as explained to him by Prosecutor Dizon. Thereafter, appellant again signed his sworn statement.

"At the preliminary investigation conducted by Prosecutor Romeo Carbonell, appellant was likewise assisted by Atty. Mangallay. Accused Gerald Alicoy and Fred Malicdan were present with their respective counsel. During the clarificatory questions, appellant repeated the contents of his sworn statement given before the police which was recorded in the transcript of stenographic notes. Further, Prosecutor Carbonell conducted an ocular inspection of the scene of the crime with all the accused and their counsel present."^[14]

Version of the Defense

Denying participation in the killing of Sanad, Appellant Espiritu assails the admissibility of his extrajudicial confession. In the 23-page Appellant's Brief,^[15] the defense submitted its version of the facts in this wise:

"AFREDO KINAO, the uncle of the accused, stated that on September 17, 1995, he was at a vigil in Quirino Hill, when his son arrived and told him that they had to see the accused who was at the police station. He asked the police if they could bring out the accused. They were able to do so when they signed a promissory note. The police told him that Espiritu was a suspect in the killing of Sato Sannad and they had to return him on