

THIRD DIVISION

[G.R. No. 125812, November 28, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ABELARDO PARUNGAO, ACCUSED-APPELLANT.**

DE C I S I O N

MELO, J.:

On May 30, 1989, early in the morning, the detention prisoners in Cells No. 2 and 6 of the Pampanga Provincial Jail at the Provincial Capitol in San Fernando, staged a jailbreak. On the occasion thereof, Jail Guards Conrado Basa and Emilardo Valencia were killed, while Jail Guard Arnel Aldana was seriously wounded. Several pieces of firearms valued at P41,000.00 were also forcibly taken and carried away from the Provincial Jail Armory.

The incident triggered the filing on April 16, 1990, of an Information against herein accused-appellant Abelardo Parungao and 15 other prisoners charging them with the crime of Robbery with Homicide and Serious Physical Injuries, thusly:

That on or about the 30th day of May, 1989 inside the Pampanga Provincial Jail at Provincial Capitol, municipality of San Fernando, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who are cell-mates at Cell No. 6, with evident premeditation and taking advantage of their superior strength, and with intent to escape from their detention cell, by conspiring, confederating and mutually helping one another, with intent of gain, and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon Conrado Basa, Emilardo Valencia and Arnel Aldana who are all Provincial Jail Guards and while engaged in the performance and discharge of their official duties as such, by beating and striking them repeatedly with pieces of wood (bamboo stick) on the different parts of their bodies, thereby inflicting upon Conrado Basa and Emilardo Valencia serious and fatal injuries which cause their death thereafter, and serious physical injuries upon Arnel Aldana, and on the same occasion thereof and thereafter, did then and there take, steal and carry away with them the following properties, to wit:

1. One (1) shotgun 12 gauge -- SN957475 - P8,500.00
2. One (1) shotgun 12 gauge -- SN974412 - 8,500.00
3. One (1) shotgun 12 gauge -- SN974105 - 8,500.00
4. One (1) Ruby cal. 22 -- SN613085 - 5,200.00
5. One (1) Ruby cal. 22 -- SN637171 - 5,200.00
6. One (1) Ruby cal. 22 (high std) SN1166602 - 5,200.00

belonging to the armory of the Provincial Jail valued at FORTY ONE

THOUSAND ONE HUNDRED PESOS (P41,100.00), Philippine Currency, to the damage and prejudice of the said owner in the total amount of P41,100.00, Philippine Currency.

All contrary to law.

San Fernando, Pampanga, April 16, 1990.

(pp. 37-38, Rollo.)

In an earlier and a separate trial, the court below, handed down a decision dated October 4, 1990, convicting four of the accused, namely, Romeo Pamintuan, Edgar Pabalan, Mario Briones, and Ronnie Pilapil, while two, Gerardo Javier and Vivencio Feliciano, were acquitted. The judgment of conviction was later affirmed by this Court in a decision dated May 28, 1993 (People vs. Pamintuan, 222 SCRA 716 [1993]).

Herein accused-appellant Parungao who was arraigned only on January 14, 1990, was tried separately and thereafter convicted by the Regional Trial Court of the Third Judicial Region (Branch 42, San Fernando, Pampanga) on March 18, 1991. The instant appeal is thus with reference only to accused-appellant Parungao.

The evidence of the prosecution tends to show the following incidents:

At about 7 P.M. on May 29, 1989, Mario Quito, a detention prisoner in Cell No. 2 of the Provincial Jail of San Fernando, Pampanga, was asked by his cell mates Jun Solis and Edgar Pabalan, if he wanted to join them in a jailbreak and escape, to which Quito answered "Bahala na." Solis and Pabalan told Quito there is no problem because many prisoners were joining, adding that herein accused-appellant Parungao was the mastermind. Sometime thereafter, Ramon Sevilla, a detainee and trustee, came and handed a letter to Pabalan. Quito read the letter which allegedly instructed Pabalan and Solis to tie Jail Guard Basa and to put off the main switch.

Early the following morning, at about 1 o'clock, prisoner Sevilla came and opened the gate of Cell No. 2, and the prisoners therein, including Quito, went out.

While Quito was in the jail yard, he saw accused-appellant Parungao near the gate of Cell No. 1 shouting out to Sevilla to open also their Cell No. 1. Sevilla opened the gate of Cell No. 1 but accused-appellant Parungao and his cell mates Feliciano and Javier did not go out of their cell.

In the meantime, the prisoners from Cells No. 2 and 6, ran out and on their way out, they passed by Jail Guards Basa, Valencia, Aldana, and Pacheco, in their respective gates, all sleeping. To insure their escape, the escapees tied the guards, beat them with bamboo sticks, and/or stabbed them with knives. Basa and Valencia were killed; Aldana was seriously wounded, but Pacheco was unharmed.

As the prisoners were beating up the jail guards, accused-appellant who remained in his cell was heard by Pacheco shouting to Briones words which were ungrammatically translated during the trial as: "Alright, go ahead and kill those son of a bitch" (tsn, March 4, 1991, p. 5).

Later, an investigation by the Integrated National Police (INP) of San Fernando, Pampanga, showed that 6 firearms were missing from the prison armory.

Accused-appellant puts up the defense of denial. According to him, during the jailbreak, he was inside Cell No. 1 together with the rest of his cell mates, including Luisito Tolentino, Vivencio Feliciano, and a certain Lapid. There was a brownout and he lay on the floor as gunshots were fired. He claims he had nothing to do with the jailbreak and was implicated because the prosecution witnesses, who were prisoners and jail guards, took offense against him because he had reported them for drug trafficking inside the jail.

Persuaded by the prosecution's evidence, the trial court rendered its decision on March 18, 1991, the decretal portion of which reads:

WHEREFORE, the Court finds accused Abelardo Parungao y Gatus guilty and hereby sentences him to suffer the penalty of life imprisonment and to pay solidarily (alongside with Romeo Pamintuan y Bautista, Edgar Pabalan y Benamira, Ronnie Pilapil y Esaya and Mario Briones y Guinto) the following:

1. The heirs of the late Emilardo Valencia the total sum of P180,000.00, broken down as follows: P50,000.00 for the death of Emilardo Valencia, P10,000.00 for funeral/burial expenses; P100,000.00 for loss of earning capacity; P20,000.00 as moral damages;
2. The heirs of the late Conrado Basa the total sum of P182,000.00 broken down as follows: P50,000.00 for the death of Cornado Basa; P12,000.00 for funeral/burial expenses; P100,000.00 for loss of earning capacity; P20,000.00 as moral damages;
3. Arnel Aldana the amount of P800.00;
4. Provincial Jail of San Fernando, Pampanga the amount of P41,100.00.

SO ORDERED.

(p. 43, Rollo.)

Accused-appellant anchors his appeal on what he considers to be reversible error on the part of the trial court in accepting and giving full probative value to the hearsay and uncorroborated testimony of the prosecution witnesses and on the basis thereof, in finding him a co-conspirator and a principal by inducement.

The principal query posed, therefore, in the instant appeal is whether or not accused-appellant is a co-conspirator and principal by inducement.

The prosecution presented four witnesses - Mario Quito, Ronnie Pilapil, Arnel Aldana, and Fernando Pacheco to establish the existence of conspiracy and that accused-appellant was co-conspirator and a principal by inducement in the commission of the crime charged.

Mario Quito, a prisoner in Cell 2 testified that his cell mates Jun Solis and Edgar