333 Phil. 548

SECOND DIVISION

[G.R. No. 111541, December 17, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAX MEJOS Y PONCE, ACCUSED-APPELLANT.

D E C I S I O N

PUNO, J.:

Appellant Max Mejos y Ponce, a scavenger, was charged with and convicted of the crime of Murder by the Regional Trial Court of Pasay City.[1]

The Information[2] against him reads:

> "That on or about the 30th day of October 1992, in Pasay, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Max Mejos y Ponce, did then and there wilfully, unlawfully and feloniously with intent to kill, evident premeditation, taking advantage of superior strength, in disregard of the respect due the offended party on account of her sex and armed with a deadly weapon, attacked (sic), assault, and stab one Maria Nanette Cartagena Y Anolin on the vital parts of her body, thereby inflicting upon the latter mortal wounds which caused her instantaneous death.
>
> "Contrary to Law."

Appellant pled not guilty upon arraignment. Trial ensued.

The facts show that between 2:00 p.m. and 3:00 p.m. of October 30, 1992, Geronides Cartagena[3] and his 17-year old daughter, Ma. Nanette Cartagena,[4] went to the house of barangay chairman Bienvenido Flores at Apelo Cruz Street, Riverside, Malibay, Pasay City. They were to report that Nanette had earlier seen appellant Max Mejos within the vicinity. Appellant Mejos stabbed Geronides in 1991 and the latter wanted him to be apprehended. Nena Flores, wife of the *barangay* chairman, was watching television when Geronides and Nanette arrived. She advised them to seek help from other authorities as her husband was not yet home. Geronides left to fetch the police while Nanette and Flores waited for him at the barangay outpost.[5]

While inside the outpost, Flores saw appellant approaching with a knife. Instinctively, Flores pushed Nanette and warned her: *"Takbo, nandiyan si Max Mejos."* They ran towards Apelo Cruz Street but appellant chased them. Nannette tripped and fell on the ground. Appellant caught up with her near the bridge, beside the Iglesia ni Kristo Chapel. Appellant stab her at the back. He grabbed Nanette's hair and, in that position, stabbed her on the chest. Flores heard Nanette begging for her life, saying: *"Tama na, tama na."* Appellant did not heed Nanette's pleas.

He repeatedly stabbed her until she fell lifeless on the ground.[6]

Although startled by the incident, Flores quickly came to her senses, boarded a "pedicab" and rushed to the police detachment. She met Geronides along the way with some policemen. They were looking for appellant. Flores directed them to the place where Nanette had been stabbed. They rushed to the crime scene but missed appellant who had already fled.[7]

At about 6:15 p.m. that day, Flores executed her sworn statement[8] at the police station in Pasay City where she identified the assailant as Max Mejos, her neighbor. She returned to the police station the following day and gave an additional statement. Inside the station, she was asked by the police to point to Nanette's assailant. She pointed to appellant who was in the safety cell of the investigation room.[9]

Edgar Ribo,[10] a security guard, corroborated the testimony of Flores. At about 3:30 p.m. of October 30, 1992, he was at his post at the Iglesia Ni Kristo Chapel, situated along Apelo Cruz Street. He heard a woman screaming and begging for mercy. He saw appellant stabbing the victim from a distance of about five (5) meters. Blood was oozing from her back but appellant continued stabbing her until she fell on the ground. Appellant then fled towards EDSA.[11]

Dr. Bienvenido Munoz, a medico-legal officer of the National Bureau of Investigations, conducted an autopsy examination of the victim. His examination revealed that the victim sustained at least six (6) stab wounds. Two were inflicted at the back while the rest were inflicted on the chest and abdomen. The wounds at the back and abdomen were fatal. Dr. Munoz also found some incised wounds in the upper extremity of the victim. They signified that she tried to defend herself during the assault. He also opined that the assailant used a sharp-pointed, single-bladed instrument like a kitchen knife or a *"balisong"* (fan knife). He concluded that she could not have survived even if she was immediately brought to the hospital.[12]

Appellant's defense was alibi. He alleged that he lived in Bulacan from 1989 until 1992. On the material date and time, he was harvesting palay in Bustos, Bulacan when his wife, Carla, unexpectedly came bearing the news that their son was seriously ill. He borrowed money from a neighbor, Teresita Velasco, then proceeded to his sister's house, Delia, and requested her to accompany them to Manila. That same afternoon, they went to the terminal in Baliwag and boarded a bus bound for Manila. The bus arrived in Manila at about 7:00 p.m. They alighted at Grace Park, Kalookan, and took a passenger jeepney bound for Libertad-Baclaran. From Libertad, they boarded another jeepney en route to Malibay. His sister repaired to her apartment in LTB while he and his wife alighted at the Philtranco terminal, near Apelo Cruz Street. At the Philtranco terminal, his wife told him to visit their child at San Lazaro Hospital in Tayuman, Manila. They parted ways. His wife boarded a "pedicab" along Apelo Cruz. About three (3) minutes after his wife had left, someone grabbed him from behind and accused him of snatching a necklace. He was brought to the Malibay detachment and made to answer for the murder charged.

Appellant further alleged that Nena Flores testified against him because of a dispute

between her husband, Bienvenido Flores, and his brother, Felizardo Mejos, which transpired ten (10) years ago. Bienvenido Flores was convicted for stabbing Felizardo.

Carla Mejos, Teresita Velasco and Delia Fuentes corroborated the testimony of appellant. They all claimed that appellant was in Bulacan the whole afternoon of October 30, 1992.

After considering the diametrically opposed versions of the parties, the trial court gave credence to the version of the prosecution. It found that the killing was attended by the qualifying circumstance of abuse of superior strength and convicted appellant of Murder. It sentenced appellant to suffer the penalty of reclusion perpetua. He was also ordered to pay the amount of fifty thousand pesos (P50,000.00) as indemnity to the heirs of the victim, and to pay the costs.[13]

Hence, this appeal where appellant contends that:

"I. THE TRIAL COURT ERRED IN GIVING MORE WEIGHT AND CREDENCE TO THE BIAS [SIC] DECLARATION OF PROSECUTION WITNESS NENA FLORES.

II. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS EDGAR REBO [SIC] Y ESPONELLA WHO DID NOT SEE THE INCIDENT NOR DID HE SAW [SIC] THE ASSAILANT.

III.THE TRIAL COURT ERRED IN CONVICTING THE APPELLANT ON THE WEAKNESS OF THE DEFENSE-ALIBI - BUT NOT ON THE STRENGTH OF THE PROSECUTION."

The issues boil down to the credibility of Nena Flores and Edgar Ribo, the eyewitness to the crime.

Appellant insists that Nena Flores is biased witness. Her prejudice allegedly stemmed from the conviction of her husband for stabbing Felizardo Mejos, a brother of appellant, ten (10) years ago.

We reject this argument.

Nena Flores denied any knowledge about the alleged stabbing incident.[14] Even assuming that her husband stabbed appellant's brother, the evidence is insufficient to show that Nena Flores still harbored ill-feelings against appellant after the lapse of ten (10) years. It ought to be noted that the incident did not involve appellant himself who was only fifteen (15) years old at that time.

To be sure, a perusal of the records will not yield any trace of bias in the testimony of Nena Flores. Her story is consistent and full of minute details. She testified:[15]

"Q: What happened, madam witness, while you and Nanette Cartagena [sic] were sitting at the Brgy. Outpost?

"A: Nanette Cartagena was seated at my left side and I noticed Max Mejos approaching with a knife.

"Q: How far was Max Mejos when you first saw him?

"A: About five (5) arms length.

"Q: From what direction did he come from?

"A: From our left side.

"Q: What did you do when you noticed Max Mejos approaching with a bladed weapon?

"A: I suddenly shout(ed) and pushed Nanette Cartagena and told her, "TAKBO, NANDIYAN SI MAX MEJOS".

"Q: And so, what happened after that?

"A: We simultaneously ran away towards 704 Apello Cruz.

"Q: How about Max Mejos, did you notice him at that time when you ran away?

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"A: He chased us.

"Q: And what happened next?

"A: And when he chased us, Ma. Nanette Cartagena tripped and fell to (sic) the ground.

"Q : After that what happened next?

"A: When Nanette Cartagena tripped and fell to (sic) the ground, Max Mejos overtook her and first stabbed her at the back.

"Q: What happened next?

"A: While I was waiting for a pedicab, I happened to look back at them and I saw Max Mejos stab again Nanette Cartagena, took (sic) hold of her hair and stabbed (sic) her at the chest.

"Q: What else transpired during that time, Madam witness?

"A: While I was (on) board the pedicab, I look(ed) back and I saw Max Mejos continue to stab Nanette Cartagena who was pleading 'TAMA NA, TAMA NA' but Max Mejos did not cease to stabbed (sic) Nanette until she fell down.

"Q: To what place did you proceed?

"A: To the detachment.

"Q: Were you able to reach the police detachment?

"A: No more, ma'am, because I was able to meet the policeman on the way and also her father.

"Q: And what did you tell to (sic) the father of Nanette and the policeman, if any?

"A: I told them "go back, go back" because the criminal was able to stab Nanette Cartagena. And he was able to overtake her.

"Q: So what did you and the police officer and the father of Nanette do after Nanette Cartagena was being stabbed by the accused Max Mejos?

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"A: They immediately proceeded to the place and chased Max Mejos but they were not able to catch him...."

Flores could not have contrived her story. She identified appellant as the malefactor two (2) hours after the incident. Geronides corroborated the story of Flores in a