Supreme Court E-Library

SECOND DIVISION

[G.R. No. L-33046. February 18, 1986]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **PASCUAL CUYA, JR.,** *defendant-appellant.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; TESTIMONY OF CONSPIRATORS; NOT SUFFICIENT FOR CONVICTION UNLESS SUPPORTED BY OTHER EVIDENCE.—** The general rule is that the testimony of a co-conspirator is not sufficient for conviction unless supported by other evidence. The reason is that it comes from a polluted source. It must be received with caution because, as is usual with human nature, a culprit, confessing a crime, is likely to put the blame as far as possible on others rather than himself (*People vs. Sarmiento*, 69 Phil. 740, 742). As an exception, the testimony of a co-conspirator may, even if uncorroborated, be sufficient as when it is shown to be sincere in itself, because given unhesitatingly and in a straightforward manner and is full of details which by their nature could not have been the result of deliberate afterthought (*People vs. Sarmiento,* 69 Phil. 740).

2. **CRIMINAL LAW; ROBBERY WITH HOMICIDE; KILLING MUST BE PERPETRATED BY REASON OF ROBBERY.—** The crime is robbery with homicide because the killing was perpetrated by reason of the robbery.

DECISION

AQUINO, *C.J.* :

Pascual Cuya, Jr. appealed from the decision of the Court of First Instance of Batangas, finding him guilty of robbery with homicide, sentencing him to *reclusion perpetua* and ordering him to pay the heirs of Ruben Marasigan an indemnity of P12,000.

From the statement (Exh. A) and testimony of Lorenzo del Carmen, 21, at the preliminary investigation (Exh. B) and trial,

Supreme Court E-Library

it appears that in the afternoon of April 6, 1970 in Alitagtag, Batangas, Pascual Cuya, Jr., 27, and Del Carmen, being in need of money for going to Manila, followed one Ruben Marasigan, 58, single, while the latter was going to his hut to rest, Cuya, armed with a bamboo club known as *kulatay*, struck Marasigan twice as he was going to enter the hut. He hit Marasigan on the nape and on the right side of the neck. Blood oozed from the victim's nose.

Cuya handed the club to Del Carmen who struck Marasigan twice, hitting him on the back of the head. They carried Marasigan to a creek. Cuya took the victim's money amounting to P40. He gave P20 to Del Carmen.

The autopsy disclosed that Marasigan had a fractured skull which was fatal. It caused his death (Exh. E).

It should be noted that Del Carmen and Cuya were members of a gang (*barkada*) in Balic-balic Street, Sampaloc, Manila. Del Carmen had a friend in Alitagtag named Julieng Pagsoyoin with whom he stayed. Cuya's father and grandparents were from Alitagtag. That explains why on the date in question, they both wanted to return to Manila.

Del Carmen and Cuya were acquainted with the victim Ruben and his sister Maria. They know Ruben's habit of taking a rest in his hut after lunch.

Ten days later, or on April 16, 1970, Del Carmen was arrested. He admitted his criminal liability (Exh. A). An information for robbery with homicide was filed against him and Cuya on April 30, 1970. At his arraignment, he pleaded guilty. He was sentenced to *reclusion perpetua* to pay P12,500 as indemnity to the heirs of Ruben Marasigan (52, Record). Cuya pleaded not guilty. Del Carmen testified as a prosecution witness in the trial of Cuya.

Cuya pleaded an alibi. He said that on the date in question he was on a picnic in Pingas, east of Alitagtag, with Erlinda Atienza and her husband Boy and one Francisco. He declared that he was implicated in the case because he helped the police

Supreme Court E-Library

in apprehending Del Carmen. The trial court did not believe his alibi.

In this appeal his counsel contends that the trial court erred (1) in relying on Del Carmen's testimony; (2) in admitting the testimony of Ricardo Coronel; (3) in not finding that Cuya's help in the arrest of Del Carmen was solicited by the police and by members of the Marasigan family; (4) in not finding that Cuya had a clear conscience as shown by his conduct after the discovery of the victim's body and (5) in not finding that his guilt was not proven beyond reasonable doubt.

These assignments of error, which were refuted by the Solicitor General, may be reduced to the question of credibility. The real issue is whether the testimony of Del Carmen, an alleged co-conspirator, is sufficient to show the complicity of Cuya.

The general rule is that the testimony of a co-conspirator is not sufficient for conviction unless supported by other evidence. The reason is that it comes from a polluted source. It must be received with caution because, as is usual with human nature, a culprit, confessing a crime, is likely to put the blame as far as possible on others rather than himself (*People vs. Sarmiento*, 69 Phil. 740, 742).

As an exception, the testimony of a co-conspirator may, even if uncorroborated, be sufficient as when it is shown to be sincere in itself, because given unhesitatingly and in a straightforward manner and is full of details which by their nature could not have been the result of deliberate after-thought (*People vs. Sarmiento, supra*).

The instant case falls within the exception. Del Carmen gave at first his extrajudicial confession wherein he implicated Cuya (Exh. A). Then, he ratified that confession at the preliminary examination (Exh. B) and on the witness stand. The trial court characterized his testimony as "spontaneous".

Even if we disregard the testimony of Ricardo Coronel, that he overheard the conversation of the two accused wherein Cuya had admitted that he was a co-perpetrator of the crime, Cuya's

Supreme Court E-Library

guilt is, nevertheless, proven by the testimonies and confession of Del Carmen.

We hold that Cuya's guilt was proven beyond reasonable doubt. The fact that the autopsy revealed that, aside from his fractured skull, Marasigan had a through-and-through gunshot wound in the lower jaw implies that there were two assailants. Del Carmen said that Cuya was armed with a .22 caliber revolver. cdll

The crime is robbery with homicide because the killing was perpetrated by reason of the robbery.

WHEREFORE, the trial court's judgment is affirmed with the modification that the indemnity is increased to P30,000. Costs *de oficio*.

SO ORDERED.

Concepcion, Jr., (Chairman), Abad Santos, Escolin, Cuevas, and *Alampay, JJ.*, concur.

EN BANC

[G.R. No. 57292. February 18, 1986]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JULAIDE SIYOH, OMAR-KAYAM KIRAM, NAMLI INDANAN and ANDAW JAMAHALI,** *accused-appellants.*

SYLLABUS

CRIMINAL LAW; CONSPIRACY; LIABILITY OF CONSPIRATORS.— "It is believed that conspiracy as alleged in the information is sufficiently proved in this case. In fact the following facts appear to have been established to show clearly conspiracy: A) On July 14, 1979, while peddling, the