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from the defendant's motion to dismiss. But as heretofore pointed out, in the resolution of a motion to dismiss, the sufficiency or insufficiency of the cause of action must be determined solely from the face of the complaint, and no other. And if the court finds the allegations sufficient, but doubts their veracity, the only course of action to take is to deny the motion to dismiss, require defendant to answer, and thereafter proceed to try the case on the merits.

WHEREFORE, the questioned order dismissing the complaint is hereby set aside. Let the records of the case be remanded to the Executive Judge of the Regional Trial Court of Quezon City to be raffled to a branch of said court for appropriate proceedings. No costs.

SO ORDERED.

Concepcion Jr. (Acting Chairman), Cuevas, Alampay, and *Patajo, JJ.*, concur.

Aquino (*Chairman*) and *Abad Santos, JJ.*, on leave.

SECOND DIVISION

[G.R. No. L-56355. September 5, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **BONIFACIO NAZ *y* OBAL,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; FINDINGS OF THE TRIAL COURT SUSTAINED ON APPEAL.— We have examined the record of the case and find no reason to set aside the judgment of the trial court finding the appellant guilty of killing his own natural mother. The said

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findings are fully supported by documentary evidence and the testimony of witnesses who had no reason whatsoever to testify falsely against the appellant. Two of said witnesses are appellant's own father and brother. His brother, Jose Naz, declared that the appellant admitted to him that he killed their mother because the latter refused to give him money. We cannot doubt the sincerity of Jose Naz and Emilio Naz for it is unbelievable that a person would testify against his own son or brother and impute to him the commission of a grave offense, unless it is true. As a matter of fact, Jose Naz did not tell anyone, except his father, of his brother's admission. He was reluctant to testify against his elder brother and it was only after he was persuaded by the Fiscal, who learned of the appellant's admission from someone else, that Jose decided to reveal the secret imparted to him by the appellant. Finding the conclusion of the trial court in accordance with the law and evidence, the same should be sustained.

2. **ID.; ID.; ID.; MINOR INCONSISTENCIES AND CONTRADICTION DO NOT AFFECT CREDIBILITY.**— In an attempt to discredit the testimony of the witnesses for the prosecution, counsel for the appellant pointed to some inconsistencies and contradictions in their testimony which he believes militate strongly against the credibility of said witnesses. The contradictions and inconsistencies, however, refer to minor details which would not impair their credibility.

3. **CIVIL LAW; DAMAGES; INDEMNITY FOR DEATH, ₱30,000.00; APPELLANT EXCLUDED FROM BENEFITS THEREOF.**— However, provisions for the indemnification of the heirs of the victim, the appellant excluded as beneficiary, in the amount of ₱30,000.00 should be included in the judgment.

D E C I S I O N

CONCEPCION JR., *J.*:

At about 9:00 o'clock in the morning of January 2, 1977, Carmen Obal-Naz, a septuagenarian, was found dead in her house in Barangay Tagoytoy, Camalig, Albay. The autopsy conducted by the Municipal Health Officer showed that she sustained the following lesions:

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"1. Hack wound behind the left ear measuring 12 cms. and 4 cms. downward.

"2. Hack wound middle portion of the neck measuring 5 cms. x 1.5 cms.

"3. Stab wound 2 cms. below the first wound on the left neck measuring 4.5 cms. with a depth of 3.7 cms.

"4. Stab wound, left side of the neck 2 cms. from the 3rd wound measuring 2.5 cms."[1]

For her death, her son, Bonifacio Naz, was charged with the crime of Parricide committed, as follows:

"That on or about January 2, 1977, at Barangay Tagoytoy, Municipality of Camalig, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with a bolo with intent to kill, did then and there wilfully unlawfully and feloniously hack and stab Carmen Obal Naz, his mother, 72 years old, on the neck, inflicting upon her several hack wounds as shown by the autopsy report of Dr. Teodoro C. Ciocson, M.D. Municipal Health Officer, which directly caused the immediate death of Carmen Obal Naz."

After a full evaluation of the proofs presented at the trial, the court *a quo* rendered judgment which reads, as follows:

"ALL THE FOREGOING AND EVIDENCE CONSIDERED, and finding defendant Bonifacio Naz guilty beyond reasonable doubt of the offense of Parricide, the Court hereby sentences him to suffer the penalty of *reclusion perpetua* or 30 years imprisonment to be served in the manner provided for under Article 27 of the Revised Penal Code;

"And provided that the defendant has abided with the rules and regulations of confinement for sentenced prisoners pursuant to law, credit the defendant full time of his preventive imprisonment in the service of his sentence."

From this judgment, the accused Bonifacio Naz has appealed to this Court.

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[1] Exhibit D.

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The record shows that the appellant, Bonifacio Naz, is the eldest of the four children of Emilio Naz and the victim, Carmen Obal. On several occasions, the old couple had admonished their son, Bonifacio, for his profligate ways which was resented by Bonifacio, who would curse his parents and say: "*Kukomplihan ta barang kamo,*" which means "I will serve in jail for both of you." The last time the appellant was reprimanded by his parents was on the Friday immediately preceding the death of Carmen on January 2, 1977.

On that fateful day of January 2, 1977, Carmen Obal was alone in their house, where they have a store, in Barangay Tagoytoy, Camalig, Albay, as her husband Emilio Naz, and the other inmates of the house were attending a barrio fiesta of Pawa of the same municipality. Early in the morning of the said day, a neighbor, one Nemesia Napay, went to the house of Carmen to buy some rice. As she knocked at the window of the store, she heard a thudding sound coming from inside the house. She went to the kitchen and called, "Carmen." But, Carmen did not answer her call. In her stead, the appellant Bonifacio Naz came out. Nemesia told him that she wanted to buy some rice, but the appellant told her that he could not sell her some rice and immediately went inside. Shortly thereafter, the appellant reappeared, carrying a bolo with blood stains on his right hand, and asked Nemesia where she was going. Nemesia was afraid of what she saw and ran away.

That same morning, Aida Navarro, another neighbor, upon being informed of the death of Carmen by a child named Vilma Naz, immediately went to the house of Carmen. As the main door was closed, she passed through the kitchen door which was open. Upstairs, she saw Carmen lying near the door to the *bodega* for storing rice. She proceeded to the sala and switched off the radio. While at the sala, she saw the appellant pulling out the drawer of an *aparador* inside the bedroom next to the sala of the house. He had a bolo by his side and a key in his hand. Aida was frightened and ran down the house. When she reached the ground, she told the appellant to call the barrio captain, but did it herself when the appellant refused.

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The victim's husband, Emilio Naz, who was then attending the Pawa barrio fiesta in the house of his son, Jose, upon being informed of the death of his wife, immediately left for home together with his two sons, Jose and Jaime, who were also attending the barrio fiesta. Upon his return, Emilio pushed open the door of their house and saw his wife, Carmen, lying on the floor of one of the rooms near the door. He also saw the appellant coming out of the room and going down the house.

Sometime later, two policemen arrived and took pictures of the victim,[2] after which they wrapped the body of Carmen and brought it to the municipal building of Camalig for autopsy. Dr. Teodorico Ciocson, the Rural Health Physician of Camalig, Albay, conducted a post-mortem examination of the cadaver and subsequently issued a medical certificate,[3] and a death certificate.[4]

The following day, January 3, 1977, an investigation was conducted at the municipal building of Camalig, Albay, and after the appellant had been questioned, he embraced his brother, Jose, who was then waiting outside the investigation room, and admitted to Jose that he killed their mother because she refused to give him some money.

In his defense, the appellant, Bonifacio Naz, denied the commission of the offense and points to one Prospero Navarro as the culprit. His testimony as summarized by the trial court, follows:

"That the victim Carmen Obal was his mother; that he remembers having gone to the house of his mother at around 8:00 in the morning of January 2, 1977 to buy rice and other commodities; that upon arriving at the store, he did not notice anything and so, he entered the house only to meet a certain Prospero Navarro, coming out from the house; that it was at this moment that he chanced upon his mother lying down by the side of a box where palay is stored with face

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[2] Exhibits A, B, and C.

[3] Exhibit D.

[4] Exhibit E.

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downwards; that he noticed her mother to be dead even as he moved the body so that her face shall face upwards; that seeing his mother to be already dead, he shouted 'mother who killed you, how did this happen to you' and all the while he was crying and shouting; that his father is Emilio Naz; that because of his shouts, two (2) of his barrio mates, Ester Villaraza and Aida Mostales arrived at the scene; that he suspected Prospoero Navarro as the culprit responsible for the death of his mother and that he is convinced that Prospero Navarro was the one who killed his mother because he was the one whom he met coming out from the house when he saw the victim, his mother, inside the store already dead. On cross examination, the defendant testified that he did not tell his father nor the barrio authorities that he saw Prospero Navarro coming out from the house of his mother in the morning of January 2, 1977; that he denies having threatened his parents with violence every time he was refused money which he would ask from his parents every now and then."

We have examined the record of the case and find no reason to set aside the judgment of the trial court finding the appellant guilty of killing his own natural mother. The said findings are fully supported by documentary evidence and the testimony of witnesses who had no reason whatsoever to testify falsely against the appellant. Two of said witnesses are appellant's own father and brother. His brother, Jose Naz, declared that the appellant admitted to him that he killed their mother because the latter refused to give him money. His testimony to this effect reads, as follows:

"Q After the investigation what happened?
A After the investigation of Bonifacio he embraced me saying: 'What will happen to me by this incident?'

"Q What was your reaction when you were told by your brother?
A I told him by saying: 'As you have done it let us wait whatever penalty the court may give you.'

"Q Was there any reply from the accused, your brother when you told him that?
A His answer was this way, 'You please take care of my family.'

"Q What else did the accused tell you that time?
A He also told me it happened because he wanted to get an amount of money as he was not given that is why he did that act.

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"Q What incident was he referring?
A The death of my mother, the killing of my mother.

"Q What was your reaction?
A I answered him, 'why did you not come to me in Pawa as I would have given you the amount?'

"Q What was the answer of your brother?
A I did not think of it.'"[5]

Emilio Naz, upon the other hand, declared that the appellant would say: "*Kukomplihan ta barang kamo.*" ('I will serve sentence for you') every time he is reprimanded or admonished by his parents for his profligate ways.[6]

We cannot doubt the sincerity of Jose Naz and Emilio Naz for it is unbelievable that a person would testify against his own son or brother and impute to him the commission of a grave offense, unless it is true. As a matter of fact, Jose Naz did not tell anyone, except his father, of his brother's admission. He was reluctant to testify against his elder brother and it was only after he was persuaded by the Fiscal, who learned of the appellant's admission from someone else, that Jose decided to reveal the secret imparted to him by the appellant.

In an attempt to discredit the testimony of the witnesses for the prosecution, counsel for the appellant pointed to some inconsistencies and contradictions in their testimony which he believes militate strongly against the credibility of said witnesses. The contradictions and inconsistencies, however, refer to minor details which would not impair their credibility.

Counsel for the appellant also assails the alleged careless and haphazard investigation made by the police and their failure to investigate a certain Prospero Navarro who could have possibly committed the crime, as well as, Vilma Naz and Agapito Moron.

If the police did not investigate Prospero Navarro, the appellant has no one to blame, but himself. He did not report the presence

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[5] tsn of Dec. 6, 1977, pp. 5-6.

[6] tsn of July 28, 1977, pp. 7-8.

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of the said Navarro in the house when he arrived thereat in the early morning of January 2, 1977, to the police authorities who went to the scene of the crime to investigate. Neither did he voice his suspicions to his own father, brothers, and other close relatives. Besides, if in truth, he saw the said Prospero Navarro come out of his mother's house when he went there on that fatal morning, he would have chased and confronted the said Navarro immediately upon seeing his mother lying dead inside the house. As it is, the appellant's claim does not inspire rational belief.

In the case of Vilma Naz and Agapito Moron, there is no showing that they were eyewitnesses to the commission of the crime. Vilma Naz was only a child who informed their neighbor, Aida Navarro, of the death of her (Vilma's) grandmother, while Agapito Moron was the one sent to notify Emilio Naz at Pawa on the death of Carmen. At any rate, if the appellant believed that the testimony of these persons are material to the case, he should have presented them in court as his witnesses.

Finding the conclusion of the trial court in accordance with the law and evidence, the same should be sustained. However, provisions for the indemnification of the heirs of the victim, the appellant excluded as beneficiary, in the amount of ₱30,000.00 should be included in the judgment.

WHEREFORE, the judgment appealed from should be, as it is hereby, AFFIRMED, with the modification that the appellant should indemnify the heirs of the victim, the appellant excluded as beneficiary, in the amount of ₱30,000.00, without subsidiary imprisonment in case of insolvency. With costs against the appellant.

SO ORDERED.

Escolin, *Cuevas*, *Alampay*, and *Patajo*, *JJ.*, concur.

Aquino (*Chairman*) and *Abad Santos*, *JJ.*, on leave.