

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANIELITO DEMETERIO, ET AL., ACCUSED, DANIELITO DEMETERIO,
ACCUSED-APPELLANT.**

G.R. No. L-48255. September 30, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is an appeal by Danielito Demeterio from the judgment of the then Court of First Instance of Marinduque, in Criminal Case No. 135, convicting him of Murder, qualified by abuse of superior strength, and sentencing him to suffer reclusion perpetua.

On June 28, 1971, Jeremias BRUIT and Danielito DEMETERIO were charged with Murder under the following Information:

"That on or about the 27th day of March 1971, at about 3:00 o'clock in the afternoon thereof, in barrio Antipolo, municipality of Gasan, province of Marinduque, Philippines and within the jurisdiction of this Honor-able Court, the above-named accused, conspiring, confederating and mutually helping one another, with treachery, evident premeditation and abuse of superior strength, did, then and there, wilfully, unlawfully and feloniously hack with a bolo and stab with a sharp pointed iron bar one Rodolfo Saludes thereby causing upon the latter multi-ple fatal wounds in the different parts of his body which caused his instantaneous death.

"That the accused Jeremias Bruit was formerly convicted by final judgment by the Court of First Instance of Marinduque for Homicide in Criminal Case No. 2210 on May 22, 1963 and was sentenced to one (1) year, 2 months and 1 day to 7 years and 1 day imprisonment and to indemnify the offended party in the amount of P6,000.00.

"That by reason of the untimely death of Rodolfo Saludes, his heirs suffered the following damages:

1. P12,000.00 for death indemnity;
2. P10,000.00 for moral damages; and
3. P61,608.00 for loss of earning capacity of the deceased Rodolfo Saludes who was killed at the age of 28 years and was earning an average of P6.00 a day as a lawyer.

"CONTRARY TO LAW."

Upon arraignment, BRUIT entered a plea of guilty to the lesser crime of Homicide and was sentenced accordingly. He died while serving sentence. Trial proceeded only against DEMETERIO after he pleaded not guilty.

From the testimony of Teresita Motol, widow of the deceased, the prosecution synthesized the facts as follows:

"On March 27, 1971, at around 2:30 in the afternoon, in Gasan, Marinduque, while Teresita Motol, her mother-in-law, Ines Sarmiento, Cirila Maac and Emarita Samanta were washing clothes in the Antipolo river,

Teresita and her mother-in-law heard a noise ('kalampugan') in the latter's house, which was some distance away. Teresi-ta heard her husband Rodolfo Saludes shout 'Nanay, Nanay, Nanay, nahan po si Tatay?' At the moment, Jeremias Bruit and Danielito Demeterio were chasing Rodolfo Saludes ('Habol ng taga at saksak'). Upon seeing what was happening, Teresita picked up stones and hurled them at Bruit and Demeterio. In pursuing Saludes, Bruit had a bolo and Demeterio had a 7-inch long pointed iron bar (TSN, pp. 2-7, June 4, 1973).

"The assailants caught up with Saludes in the deeper part of the river ('libtong') (Exh. F-4, p. 99, rec). Bruit got hold of Rodolfo's hand. As Saludes fell into the 'libtong', Bruit boloed him, while Demeterio stabbed him. Teresita frantically shouted for help. Her brother-in-law, Venus, and her father-in-law De-metrio Saludes arrived and pursued Bruit to no avail (TSN, pp. 8-12, June 4, 1973). The victim instantly died (Exhs. F-5, G-1, p. 99, rec.)."[1]

Demetrio Saludes, the father, reported the inci-dent to the police.

Dr. Wilfredo Sore conducted the post-mortem examination on the same day and submitted the following find-ings:

'Post-mortem Certificate of Death

"I hereby certify that I have this 27th day of March 1971 performed an autopsy upon the body of the deceased, Rodolfo S. Saludes, and that the cause of death was as follows:

1. Large open wound at the back penetrating the right lung; plural cavity half-filled with clotted blood;
2. Large open wound of the chest, right-side, penetrating the right lung anteriorly;
3. Large open wound of the chest, left side;
4. Large open wound of the left arm;
5. 2 stab wounds at the back rt. penetrating the pleural cavity;
6. 1 stab wound at the left forearm, post;
7. One incise wound at the left wrist;
8. 1 stab wound at the left arm lateral side.

(SIGNED)

Wilfredo L. Sore, MD

Municipal Health Officer

Gasán, Marinduque.[2]

The accused denied any participation in the commission of the crime and interposed the defense of alibi. He claimed that he was implicated because he had informed BRUIT about the attempt of the deceased to rape the wife of the former (Lerma Seda). The accused insisted that he was at home when the incident occurred detailing that at about 7:30 in the morning, he was repairing their balcony. About 10:00 o'clock, he cooked their lunch. After cooking, he ate with his mother and his niece. Then, he took a nap. At about 1:30 in the afternoon, he resumed his work. At 2:00, his sister, Leticia Guevarra, arrived from 'tianggehan' in Libtangan. After his work, he was about to go to the town proper, but was informed by a certain Thelmo Selda that the Saludeses were looking for him, so he did not proceed to town but stayed at home. About 7:30 in the evening, he saw the Saludeses in the vicinity of his home with boloes. On March 29, 1971, policeman Faeldo asked him to see the Chief of Police. But

because the Chief of Police was not in the police station, he stayed thereat of his own desire because he was afraid of the Saludeses. The next day he informed the Chief of Police that he had nothing to do with the crime but because he was afraid to go home, he requested that he be detained until the case was resolved.

Leticia Guevarra, sister of the accused corroborated the testimony of the latter by stating that between 1:30 to 3:00 in the afternoon, she was in the house of her mother where her brother was repairing their balcony.

Additionally, the defense relies on the testimonies of its witnesses, Sgt. Felino Uy and Barrio Captain David Siena to the effect that only BRUIT was reported by the Saludeses as the culprit, and the declaration of Cirila Maac that BRUIT was alone in chasing the deceased.

Specifically, Sgt. Felino Uy testified that at about 3:50 in the afternoon of March 27, 1971, Demetrio Saludes, father of the victim, reported to the Gasan Police Headquarters that Rodolfo Saludes was hacked to death by one Jeremias Bruit, which information he entered in the police blotter (Exh. 4-A).

Barrio Captain David Siena also said that he was informed by the victim's widow and her in-laws that the deceased was hacked and stabbed to death by BRUIT; that the same information was relayed to the Chief of Police when they were investigated and that aside from BRUIT no other person was implicated or mentioned.

Cirila Maac, who was with the widow and the mother of the victim washing clothes at the Antipolo river between 2:00 and 2:30 in the afternoon of March 27, 1971 stated that BRUIT alone chased the victim and stabbed him. When Demetrio and Venus Saludes arrived, she went home because she was scared. And as she also became confused, she left her laundry and did not return to get it.

The Trial Court found appellant's guilt established beyond doubt and sentenced him thus:

"Wherefore, the guilt of Danielito Demeterio of the crime of murder, as charged in the Information and as qualified by the circumstance of abuse of superior strength, has been proven beyond reasonable doubt. He is hereby sentenced, there being no modifying circumstance, to the penalty of reclusion perpetua; to indemnify the heirs of Rodolfo Saludes the amounts of P12,000 for death indemnity, P10,000 for moral damages and another P6,000 for loss of earning capacity of deceased, or a total of P28,000, all without subsidiary imprisonment in case of insolvency; and to pay the costs. The accused shall be credited for his preventive imprisonment, which commenced on April 6, 1971, under the terms and conditions of Republic Act 6127 amending Art. 29 of the Revised Penal Code.

SO ORDERED."[3]

In this appeal, appellant assigns the following errors:

1. The lower court erred in giving credence to the theory of the prosecution and the testimony of its lone witness, Teresita Motol, the wife of the victim.
2. The lower court erred in holding that the guilt of accused-appellant has been proven beyond reasonable doubt.
3. The lower court erred in convicting the accused of murder and sentencing him to suffer imprisonment for life instead of acquitting him.

The issues raised are without merit. The participation of appellant in the commission of the crime has been established beyond reasonable doubt.

There can be no question as to the positive identification of appellant by TERESITA Motol, the widow of the deceased. She could not have been mistaken for she had known appellant for some time,[4] and the incident occurred early in the afternoon on a clear day.[5] She graphically described to every grim detail how the attack

was made by BRUIT and by appellant including the weapon each was carrying. BRUIT carried a bolo, while appellant carried a pointed iron bar about six inches long with wooden handle and with a circumference like that of her small finger. Both assaulted the victim. When her brother-in-law (Venus Saludes) and father-in-law (Demetrio Saludes) came in response to her cries for help, they chased appellant but when they could not catch up with him, they tried to go after BRUIT instead.[6]

The fact that TERESITA is the wife of the deceased does not detract from her testimony. The rule is well-established that a witness' relationship does not, by itself, impair her credibility.[7] On the contra-ry, it would be unnatural for such persons interested in seeing retribution exacted for the crime to impute the same to any person other than those responsible for the crime.[8] It is not to be lightly supposed that relatives of the deceased would callously violate their conscience to avenge the death of a dear one by blaming it on persons whom they believed to be innocent thereof.[9] Even if her testimony, as the principal eyewitness, were not properly corroborated by the other prosecution witnesses, it is still sufficient to warrant the conviction of the accused, since it is well-settled that the testimony of a single witness, which satisfies the Court in a given case, is sufficient to convict.[10]

The inconsistencies in her testimony referred to by the defense, such as the exact description of the weapon that appellant was carrying, and the exact location of her husband's wounds are details that do not impair her identification of appellant. The most candid witnesses sometimes make mistakes and fall into apparently confused and inconsistent statements, which, however, should not affect their credibility,[11] where such discrepancies do not reflect that the witnesses were animated by a desire to falsify the facts.[12]

The separate testimonies of Sgt. Uy, and Barrio Captain David Siena summarized previously, declaring that TERESITA and Demetrio Saludes, the victim's father, reported to the police only the name of BRUIT soon after the incident, and the testimony of Cirila Maac that she saw only BRUIT chasing the victim, cannot prevail over the physical fact that the wounds sustained by the victim, consisting of incised and stab wounds, indicate that there was more than one assailant and that more than one weapon was used.[13] Physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses.[14] As testified to by Dr. Sore, the sharpened instrument, not the bolo, which was carried by BRUIT, caused the other wounds of the deceased. He said:

"Q. And considering the width and length of said wound (referring to Wound No. 5), could it have been possible that this same sharp-bladed bolo (which admittedly BRUIT was carrying) have caused that stab wound?

"A. Considering the size and shape, it is not possible.

"Q. So, if not possible that this same sharp-bladed bolo have caused that stab wound, what could have caused that wound?

"A. Maybe sharp-pointed instrument other than this.

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"Q. And that second stab wound, could it have been caused by this sharp-bladed instrument the bolo?

"A. No, sir.

"Q. If this sharp-bladed bolo could not have caused the stab wound, what could have caused it?

"A. A sharp-pointed instrument."[15]

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"Q. These stab wounds already marked Exhibits 'E-2' and 'E-3', what could have caused these stab wounds?

"A. Due to a sharp pointed instrument."[16]

And clarifying his statement, Dr. Sore continued:

"Q. Last time, on January 20, 1972, did you testify that wounds 5-A and 5-B in your post-mortem certificate of death marked Exhibits- B-2 and B-3 on one of the pictures shown to you, could have been caused by a pointed instrument?

"A. May I see the picture, (After looking). Yes, it is possible.

"Q And did you state that it could also be caused with or by a bolo?

"A No, I did not say that."[17]

It was appellant who was carrying that sharp-pointed instrument, a pointed iron bar with wooden handle, about six inches long, and with which he stabbed the deceased. As TERESITA had described, it was a "kantuhan, apat na kanto, magkabi-kabila" its tip sharpened and pointed like an icepick, the bar as big as the forefinger (which the parties stipulated as 3/4 of an inch in diameter).[18]

Moreover, in TERESITA's affidavit taken on March 31, 1971, or four days after the incident, and sworn to before Municipal Judge Pe on April 2, 1971, she had already mentioned appellant as one of the culprits (Exhibit "J"). So also did Ines Saludes, the victim's mother, in her own affidavit taken on April 1, 1971 (Exhibit "K").

The credibility of the police blotter (Exhibit "4"), which did not record appellant's identity, is seriously put to test by the circumstance that, from appellant's own testimony, policeman Faeldo asked him to see the Chief of Police as early as March 29, 1971, two days after the incident (the defense refuses to call it arrest), and even before TERESITA's affidavit dated March 31, 1971. Which only goes to show that previous information regarding appellant's participation had been received by police authorities.

Furthermore, despite the absence of appellant's identity from the police blotter, the Warrant of Arrest issued on April 6, 1971 (Exhibit "5") included both appellant and BRUIT. And if, in fact, the victim's father failed to mention appellant's identity, it could have been due to his extreme anxiety due to the death of his son. So also with Cirila Maac, who was in a "confused" condition, as she described herself.

It will also be recalled that even in the evening of the day itself, appellant, according to his own testimony, was in fear of his life from the Saludeses for which reason he stayed home[19], and thereafter sought shelter at the police station beginning March 29, 1971.[20] He would have had nothing to fear if, in fact, he had no participation in the offense.

Appellant's contention that he was implicated merely because he had revealed to BRUIT the deceased's attempt to molest his (BRUIT's) wife is entitled to no credence, there having been witnesses to the alleged act besides the fact that according to appellant himself, a complaint had been filed before the barangay.[21]

Appellant also argues that the record does not disclose any motive on his part to kill the deceased. Suffice it to state that motive need not be established where the accused has been positively identified[22] and there is no doubt as to the identity of the culprit.[23]

Neither will appellant's defense of alibi prosper. No doctrine has been more settled than that the posture of alibi cannot stand against positive identification. Neither can it succeed when, as in the instant case, appellant's house was only more or less ½ kilometer away from the crime scene and therefore, it was not physically impossible for him to be at the scene of the crime when it was being perpetrated.[24] Two kilometers from the scene of the crime

is a weak alibi.[25]

The crime committed beyond reasonable doubt was Murder qualified by the circumstance of abuse of superior strength. In the absence of other modifying circumstances the penalty is imposable in its medium period, or reclusion perpetua,[26] as imposed by the Trial Court.

WHEREFORE, as the judgment appealed from is in accordance with and the evidence, it is hereby affirmed in toto, with costs.

SO ORDERED.

Abad Santos, Plana, Escolin, and Relova, JJ., concur.

[1] Pp. 2-3, Appellee's Brief.

[2] Exh. A-6.

[3] p. 20, Rollo

[4] T.s.n., June 4, 1973, p. 13.

[5] Ibid., p. 15.

[6] Ibid., p. 11.

[7] People v. Lagario, et al., G.R. No. L-37483, June 24, 1983 citing People v. Villalba, 17 SCRA 948; People v. Bautista, 6 SCRA 522; People v. Valera, 5 SCRA 910.

[8] People v. Lagario, et al., ibid. citing People v. Bagasican, 6 SCRA 400; People v. Reyes, 17 SCRA 309; People v. Tagaro, 7 SCRA 187.

[9] People v. Libed, 14 SCRA 410; People v. Fetalvero, 1 SCRA 1089.

[10] People v. Lagario, et al., ibid., citing People v. Sope, et al., Phil. 810.

[11] People v. Soriano, et al., G.R. No. L-32244, June 24, 1983 citing 6 Moran's Comments on the Rules of Court, 1970 Ed., p. 138; People v. Resayaga, 54 SCRA 350.

[12] People v. Macaram, et al., G.R. No. L-8438, Aug. 30, 1957, Supreme Court Decisions - August 1957.

[13] See People v. Hermosilla, et al., G.R. No. L-58414, June 24, 1983.

[14] People vs. Sacabin, 57 SCRA 707 (1974).

[15] T.s.n., Oct. 13, 1971, pp. 8-9.

[16] T.s.n., Jan. 20, 1972, p. 6.

[17] T.s.n., January 31, 1972, p. 10.

[18] T.s.n., June 13, 1974, pp. 14-15.

[19] T.s.n., March 3, 1977, p. 13.

[20] T.s.n., ibid., p. 16.

[21] T.s.n., March 29, 1977, pp. 3-6.

[22] People vs. Araja, 105 SCRA 133 (1981) and other cases

[23] People vs. Solana, 6 SCRA 60; People vs. Indic, 10 SCRA 130; People vs. Romawak, 12 SCRA 332; People vs. Raquel, 12 SCRA 441; People vs. Reyno, 13 SCRA 647; People vs. Ner, 28 SCRA 1151.

[24] People vs. Bermoy, 105 SCRA 106 (1981)

[25] People vs. Dereje, 56 SCRA 554 (1974); People vs. Pingol, 33 SCRA 73 (1970).

[26] Article 248 (1), in relation to Article 64 of the Revised Penal Code.

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