

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CEFERINO MANUEL, LUIS EUGENIO, RANULFO ATILANO @ FELIPE ATILANO, SEGUNDINO ANDRES @ &#8220;DITO&#8221;, FELIPE RAMILLANO AND ENRIQUE MANUE...**

*G.R. No. L-44461. April 15, 1988*

Ponente: NARVASA, J.

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**NARVASA, J.:**

The belief that thirteen is an unlucky number has never entirely died out and continues to live on in the minds of the more credulous. The notion that the number presages disaster or misfortune of some sort is still fairly prevalent. And even those who would scoff at superstition as the relic of more primitive times and ways of thought often cannot help feeling a frisson of fear or foreboding when they find themselves part of a group or gathering of thirteen.

What befell the Alfaro family of Zamboanga City on January 24, 1972 is not likely to reassure the scoffers or disabuse the believers. Late in the night of that date, while thirteen members of the family lay asleep in the house of its patriarch in the district or barrio of Culianan in that City, they were set upon and attacked without warning by men armed with knives and bolos who had entered the house, some through a window and the others through a loose board in the kitchen. A veritable blood bath ensued. The intruders hacked and stabbed away at the defenceless victims, who had wakened to find themselves already under attack, killing five and seriously wounding seven of them. Those who died on the spot, or later expired from their wounds despite efforts to save their lives, were Sotera, Judith and Ermida, all surnamed Alfaro, Margarita de los Santos and Marilou Mendoza-Lopez, surviving, but seriously wounded, were Diosdado, Expedito, Ernesto, Celia, Feliciano, Jr. (who lost his left arm), Orlando and Feliciano, all surnamed Alfaro. Only one, Jeanette Alfaro, was unscathed.[1]

The incident was promptly reported to and investigated by the police who, among other things, took the statements of three of the survivors, one of which: that of Ernesto Alfaro, was captioned an "ante-mortem" declaration because the declarant, at the time of giving it, was in critical condition and suffering great pain.[2] Based on the results of that inquiry and after conducting its own preliminary investigation, the office of the City Fiscal of Zamboanga City filed with the then Court of First Instance of said City (Branch II) an information charging Ceferino Manuel, Luis Eugenio, Ranulfo Atilano @ Felipe Atilano, Segundino Andres @ "Dito", Felipe Ramillano and Enrique Manuel with multiple murder and multiple frustrated murder.[3]

Arraigned and tried on separate pleas of not guilty, the accused offered alibi as a common defense. Luis Eugenio claimed that at the time of the killings, he was threshing palay inside the bodega of one Benjamin Guevarra in Balinsungay, Zamboanga City, some three kilometers away from Culianan.[4] Ceferino Manuel declared that he was in the house of a Lt. Demaclid, about fourteen kilometers distant, where he and his wife lived.[5] Segundino Andres, for his part, testified that he had spent the entire evening of January 24, 1972 in the house of Mrs. Antonia Vda. de Manuel.[6] The three other accused also claimed to have been elsewhere than at the scene of the

crimes and engaged in entirely innocent pursuits in the evening of January 24, 1972.[7]

After trial, the Court of First Instance rendered judgment finding Ceferino Manuel, Luis Eugenio and Segundino Andres guilty as principals of the crimes charged and, assessing against them the aggravating circumstance of dwelling, sentenced them each to suffer five (5) death penalties and seven (7) indeterminate prison terms of eight years and one day of prison mayor, as minimum, to fourteen years and eight months of reclusion temporal, as maximum, the total of which, however, should not exceed forty years, to suffer also all the accessory penalties provided by law, and jointly and severally to indemnify the heirs of each of the dead victims the sum of P12,000, and to pay the costs. Felipe Ramillano, Ranulfo Atilano and Enrique Manuel were acquitted on reasonable doubt.[8]

The judgment of conviction is now before the Court on automatic review, in view of the imposition of capital penalties. Only Ceferino Manuel and Segundino Andres are represented, and by counsel de oficio, in this appeal, Luis Eugenio having bolted jail during trial and, as far as the record shows, being still at large.[9] The brief filed for the appellants attacks the judgment of the Trial Court as based on an incorrect appreciation of the evidence against them and as having disregarded their defense of alibi.[10]

The record, which the Court has carefully reviewed, having in mind that the supreme penalty was imposed, not once, but five times, in addition to seven afflictive prison sentences, upon each of the appellants, fails to sustain the latter's contentions of alleged error in the judgment of the Trial Court finding them guilty as charged.

The first point urged upon the Court is that the appellants were found guilty upon evidence identifying them as among the culprits that was not given or taken immediately after the incident, which therefore could have been colored by deliberate intent or treachery of recollection and was, at best, doubtful. Specifically, they advert to the alleged vagueness in Celia Alfaro's identification of Segundino Andres immediately after the incident, at the time describing him only as "\*\*\*\* somebody tall and dark," claiming that she became positive and definite about his identity only when she testified at the trial, one and one-half years later. The same comment is made about Expedito Alfaro's written and testimonial identification of the same Segundino Andres as the "Dito" who climbed up the window of the Alfaro house and stabbed Celia Alfaro on the night in question, describing it also as replete with inconsistencies and unworthy of belief. And Ernesto Alfaro's identification of said appellant is similarly decried as having become definite and categorical only when he took the stand, because in his statement taken after the incident[11] he could only identify Ceferino Manuel and Luis Eugenio, but not their two companions.

These arguments fail to impress. The weaknesses imputed to the identification evidence by reason of alleged inconsistency between testimony and earlier written statements are more apparent than real. The record shows, on the contrary, that Celia Alfaro, before being confronted with appellant Segundino Andres during the trial, had consistently claimed that she had known him only by face. This explains why her statement on January 27, 1972[12] did not identify said Andres by name and only described him as "tall and dark," a description which, incidentally, fitted said appellant,[13] and why she could not mention his name when her relatives visited her at the hospital where she was confined for her injuries. Her testimony identifying Andres at the trial and explaining that she already knew him, though not by name, about four months before the incident[14] is positive and unambiguous. As it is not disputed that at the time of the attack, the room where the witness was attacked was lighted by a kerosene lamp,[15] it is neither impossible nor improbable that she could have clearly seen the faces of her attackers and retained a clear memory of them even after more than a year; nor is it improbable that she recognized Andres as a familiar face without, however, knowing his name. Furthermore, no motive has been imputed to her, and the record shows none, for falsely implicating Andres. In *People vs. Catipon*,[16] where identification of the accused at the trial was considered sufficient, this Court ruled that:

"In the ultimate, the confusion of witnesses as to the name of the accused who perpetrated the crime does not

affect their testimony where the malefactor has been positively identified. The identification of the person of the accused is more important than his name."

The alleged inconsistency between the affidavit executed by Expedito Alfaro on January 27, 1972, wherein he stated that it was only "Dito" (Segundino Andres) whom he saw climbing the window of the Alfaro home and later stabbing Celia Alfaro on that fateful night and his testimony given on September 18, 1973 that he saw two persons climbing up the window and that he did not see what happened in the room where Celia slept because he was outside,[17] are not of such a character as to impair that witness' credibility, referring as they do to minor details and such variations being naturally expected from an untutored witness.[18] Both affidavit and testimony are to the effect that Segundino Andres climbed the window of the house. Whether or not he climbed alone is irrelevant to the fact of his presence at the scene of the crimes on the night in question. Whether or not Expedito actually witnessed the attack on Celia Alfaro, the fact is that the latter herself clearly and adequately described what happened to her and her companion in the room, her sister Ermida, on that occasion.

As regards witness Ernesto Alfaro, he was, as stated, in mortal peril of his life when his statement was taken immediately after the incident; so much so, that said statement was considered a dying declaration and dubbed an "ante-mortem statement" by the police officer who took it down.[19] He could not, under such circumstances, be expected to give a precise and complete account of what had happened. Withal, he was able to identify Ceferino Manuel as the person who dealt the injuries that he suffered, although he was able to point to Segundino Andres and Luis Eugenio as the latter's companions only at the trial. It is, of course, optimally desirable that identification of the perpetrators of a crime be made by the victims or eyewitnesses immediately or as soon as possible after its commission. It does not necessarily follow, however, that identification evidence cannot be received or accorded any weight if given later, even during the trial, so long as it exhibits the usual badges of truth and there is reasonably sufficient explanation for its not having been offered earlier.

The sovereign undisputable fact is that no less than three victims of these gruesome crimes have positively identified Segundino Andres as among those responsible therefor. Absent any clear evidence and on the basis merely of conjectured minor inconsistencies in their declarations, the Court is not prepared to find that they cooperated and confabulated to the extent of perjuring themselves in implicating appellant Segundino Andres in crimes of which he was innocent.

The same observations may be made with respect to the identification of Ceferino Manuel, as to which it is also significant to note that the appellants' brief dwells thereon almost only in passing, as it were, with nothing like its extended discussion of the evidence given against Segundino Andres.

The appellants' defenses of alibi were properly rejected by the Trial Court. The rule constantly applied is that it is not enough to show that an accused was somewhere other than at the scene of the crime at about the time of its commission; it must also be demonstrated that it was physically impossible for him to have been at such place at that time.

"It has been repeatedly held by this Court that to establish an alibi, a defendant must not only show that he was present at some other place about the time of the alleged crime, but also that he was at such other place for so long a time, that it was impossible for him to have been at the place where the crime was committed, either before or after the time he was at such other place. (U.S. v. Oxiles, 20 Phil. 587; People v. Palamos, 49 Phil. 601; People v. Resabal, 50 Phil. 780; People v. Niem, 75 Phil. 668)"[20]

That essential requisite of physical impossibility of presence at the scene of the crime when it was committed has not been established here; nor does it appear from a consideration of the circumstances of time and place which the appellants have submitted as constitutive of their alibis. The house of Lt. Demacilid, where appellant, Ceferino

Manuel claims he was in the evening of January 24, 1972, is only fourteen kilometers away from the scene of the crimes. The Trial Court found that said distance could easily be negotiated in less than an hour by land transportation over the asphalted road leading from that place to the crime scene.[21] The house of Mrs. Antonia Manuel, where Segundino Andres testified he had spent the night of January 24, 1972 was even nearer, being situated right in Culianan only about one kilometer from the Alfaro house.[22] Besides, the Trial Court correctly found said appellant's alibi weak and unconvincing because it was supported only by his wife.[23]

This Court has also repeatedly ruled that the defense of alibi cannot prevail over the positive identification of the accused by the prosecution witnesses.[24]

Finally, it is also settled and familiar doctrine that appellate courts will generally not disturb the findings of fact of trial courts, considering that by reason of having the unique opportunity to observe the witnesses' manner of testifying and their demeanor on the stand, they are eminently competent to weigh and determine the latter's credibility -- absent, of course, any clear indication that circumstances of substance and value that might affect the result of the case have been overlooked. No such exceptional circumstances are present here. The care and thoroughness with which the Trial Court assessed the evidence presented is manifest from the exhaustive recapitulation, particularly of the testimony of the witnesses on both direct questioning and cross-examination, made in the appealed decision. The resulting findings are well-taken, the Court finding no good reason to disturb any of them.

No issue has been raised concerning the fatal and sanguinary results of the nocturnal attack on the Alfaro family on January 24, 1972. The death of five of its members and the serious wounding of seven are not denied. The Trial Court correctly held, upon the evidence, that the appellants had been clearly and positively identified to be among the perpetrators of that attack, that they were conspirators bound by a common purpose and intent and therefore liable as principals for each and all of the multiple crimes charged. The sentences imposed must, however, be modified: first, by reducing the death penalties to reclusion perpetua, in view of the abolition of the death penalty by mandate of the Constitution; second, by increasing the maximum of the seven terms of imprisonment imposed from fourteen (14) years and eight (8) months to fourteen (14) years, eight (8) months and one (1) day, as recommended by the Solicitor General,[25] in view of the presence of at least one aggravating circumstance and pursuant to Art. 64, par. 3, of the Revised Penal Code; and third, by increasing from P12,000.00 to P30,000.00 the indemnity adjudged payable to the heirs of each of the five deceased victims, in line with current rulings.[26]

A final word about Luis Eugenio, the third accused who was found equally guilty as the appellants herein by the Trial Court, but who, having been arraigned, appeared at various hearings and even testified in his defense, escaped from detention on September 13, 1975 while the case was pending trial and who, to all appearances, has not since been apprehended. The Court holds that said accused was validly convicted and sentenced in absentia in accordance with Article IV, Section 19, of the 1973 Constitution then in force.[27] The case being on automatic review of a valid judgment against the three convicted accused, Luis Eugenio included, he is deemed to have abandoned the appeal as far as he is concerned, and this Decision is enforceable against him if and when he is apprehended.

WHEREFORE, the decision of the Trial Court under review is modified so as to: (a) reduce to reclusion perpetua the five death penalties imposed on each of the appellants, so that each of them shall serve, instead, five prison terms of reclusion perpetua; (b) increase the maximum periods of the seven prison terms imposed on each of the appellants for the crimes of multiple frustrated murder of which they were also adjudged guilty, from fourteen (14) years and eight (8) months to fourteen (14) years, eight (8) months and one (1) day; and (c) increase from P12,000.00 to P30,000.00 the indemnity adjudged payable to the heirs of each of the deceased victims, Sotera

Alfaro, Margarita de los Santos, Marilou Mendoza Lopez, Ermida Alfaro and Judith Alfaro. All prison terms hereby imposed shall be served simultaneously, and the maximum term to be served by each appellant shall not exceed forty (40) years. Said decision is affirmed in all other respects, with costs against the appellants.

**SO ORDERED.**

Teehankee, C.J., Yap, Fernan, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

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[1] Information; Rollo, pp. 6-7

[2] Exhibit Q; see also Rollo, p. 34

[3] Information, *supra*

[4] Rollo, p. 38

[5] Rollo, pp. 42-43, 81-82

[6] *Id.*, p. 46

[7] *Id.*, pp. 29-30, 44-45 and 48-50]

[8] *Id.*, pp. 90-91

[9] Rollo, pp. 133, 136

[10] *Id.*, p. 192]

[11] Exhibit Q

[12] Exhibit R

[13] Suppl. Progress Final Report of Det. Sgt. Macrolin, dated March 1, 1972; Exhibit P

[14] TSN July 30, 1973

[15] Appealed Decision; Rollo, p. 10

**[16] 139 SCRA 203**

[17] Appellants' brief, pp. 9-10

[18] *People vs. Arbois*, 138 SCRA 31

[19] Exhibit Q, *supra*

[20] *People vs. Alban*, 1 SCRA 931; see also *People vs. Pecato*, G. R. No. 41008, June 18, 1987, and *People vs. Monoay*, G.R. No. 74789, June 18, 1987

[21] Rollo, p. 82

[22] *Id.*, p. 77

[23] See *People vs. Cabanit*, 139 SCRA 94

[24] *People vs. Coronado*, 145 SCRA 250, citing *People vs. Manalo*, 135 SCRA 84, *People vs. Nepomuceno*, 136

SCRA 556, *People vs. Jones*, 137 SCRA 166, *People vs. Arbois*, supra, *People vs. Canamo*, 138 SCRA 141, *People vs. Sinaw-ay*, 138 SCRA 221 and *People vs. Gani*, 139 SCRA 301

[25] *People's brief*, p. 17; *Rollo*, p. 220

[26] *People vs. de la Fuente*, 126 SCRA 518; *People vs. Atanacio*, 128 SCRA 22; and others

[27] Which provided that "\*\*\*\* after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustified."

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