

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERMIN PADIRAYON AND JAIME VICENTE, DEFENDANTS, FERMIN
PADIRAYON, DEFENDANT-APPELLANT.**

G.R. No. L-39207. September 25, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

It is not too often that the Solicitor General accords acceptance to the basic premise of the defense in seeking acquittal that there was failure to overcome the constitutional presumption of innocence.[1] It is even rarer for the pleadings submitted by both panels, in this case instead of a brief, the Solicitor General having filed a manifestation and motion joining appellant Fermin Padirayon in his prayer that the lower court decision finding him guilty of murder be reversed and that he be acquitted, to carry the impress of a thorough and comprehensive scrutiny of the evidence and thereafter a logical and persuasive appraisal thereof. It has happened in this case. Both Attorney Guillermo B. Fuertes in the brief and Solicitor General Estelito P. Mendoza[2] in the aforesaid motion and manifestation are to be commended for the clarity with which the applicable law and legal doctrines were set forth in language of accuracy and of vigor. An examination of the records of the case confirms their submission that viewed from the lack of the credibility of the testimony offered by the sole eyewitness whose bias and prejudice would diminish the reliability of his testimony as he would benefit thereby, being the other logical suspect, and with the absence of any motive on the part of appellant, the appealed judgment cannot be sustained. We reverse.

As set forth in the appealed decision, the facts as testified by the prosecution may be summarized thus: "Jaime Vicente employed as driver of a dump truck owned by the North Luzon Super Sawmill with place of business at Nagbaranganan, Sanchez Mira, Cagayan. Aside from driving the dump truck, his duty was also to conduct home the employees to Pata and Namuac, Sanchez Mira, Cagayan. In the afternoon of March 28, 1972, he conducted the workers of the company to Namuac, Sanchez Mira. After conducting the workers, Jaime Vicente proceeded home, passing by the house of Fermin Padirayon at Namuac. He was flagged down. He slowed his vehicle and Fermin Padirayon boarded his truck and seated himself at the left of the driver. He was very close to the driver and was rubbing elbows with him. They drove eastward. Suddenly, Fermin Padirayon grabbed the wheels. Before Jaime Vicente could do anything, the truck was already going towards another direction and a man was run over. Thereafter, Fermin Padirayon made the remark, 'that was the man who hacked me.' Thereafter, Fermin Padirayon continued to drive the truck towards their house. Reaching their house, Fermin Padirayon alighted. Jaime Vicente told him that it would not be possible that he should not go to town. He pulled Fermin Padirayon who struggled and was able to free himself, and ran away. From then on, he did not see Fermin Padirayon anymore. Jaime Vicente boarded his truck and proceeded to the municipal building of Sanchez Mira, Cagayan. He reported the incident. He was interrogated by the Mayor and the Chief of Police and several soldiers. After his investigation, he was sent home Fermin Padirayon, the accused in this case, is a cousin-in-law of Jaime Vicente because he is married to a first-degree cousin. When Fermin Padirayon flagged him down to board his truck, he did not know

where he was going. From the place where he boarded up to the place where he saw a person bumped by Fermin Padirayon when he grabbed the wheel, was a distance of about 40 meters. It turned out later that the victim was Dionisio Lacuata. The following morning, March 29, 1972, the matter was relayed to the family of the victim. It was also reported to the barrio captain of Namuac, Mr. Dominador Macatuggal. The information relayed to the barrio captain was the presence of a dead person on a road in Namuac. He went immediately to the vicinity and found the cadaver lying and occupying about 1/3 of the road on the left side. It turned that the dead person was a son of Emilio Lacuata, whose name he can no longer remember. Describing the deceased, calculated his age to be between 20 to 23. Immediately, barrio captain sent somebody to call for the Mayor. To his call, the Mayor responded. Together, they looked over the cadaver which was then lying flat with his head towards the southern part of the road. The mayor sent for Dr. Ambrocio Ramiro, a resident physician of the nearby Northern Cagayan Hospital. Dr. Ramiro examined the body and reduced into writing findings. As the person was already dead, the doctor merely conducted a postmortem examination. From the postmortem examination report, submitted by the doctor, the following were the injuries found: 1. The body is in a state of rigor mortis with serosanguinous discharge from the mouth and nose. Abrasion, right side of the head and cheek. 3. Abrasion with hematoma with crepitus anterior chest wall. 4. Simple fracture of sternum and ribs of the upper half, anterior chest. 5. Abrasion with hematoma, right side posterior surface of abdomen and thorax. From the above findings, the doctor stated that the victim could have died between 3 to 24 hours before examination. Judged from the appearance of the injuries described in the postmortem examination certificate, the doctor concluded that the injuries could have been caused by a hard, blunt object with face sliding with a bumper of a 6 x 6 truck or caused by a tire of a 6 x 6 truck. The second injury we characterized as serious. The fracture of the upper sternum was caused probably by a 6 x 6 truck running over the body lying with face upwards. Again, the fourth injury was characterized as fatal because of the fracture of the sternum and ribs which impaired the movement of the heart. In addition to the postmortem examination certificate, the doctor likewise issued a death certificate, ***. In this death certificate, cause of death has been stated as crushed-injury chest."[3]

It is easily understandable why the brief for appellant did attention to the paucity of proof that could meet the test of demonstrating guilt beyond reasonable doubt, The presumption of innocence as decreed by (he Constitution could thus be the basis of a plea for reversal. From the opening paragraph of the manifestation and motion for Solicitor General Eslelito Mendoza where the acquittal of appellant is sought, the acceptance of appellant's version is rather evident. "In convicting the appellant, the trial court relied mainly on the testimony of Jaime Vicente, driver of the 6x6 dump truck that bumped and ran over Dionisio Lacuata, the victim in this case. Jaime Vicente, who turned state witness, declared in essence that while driving on the night in question along the barrio road of Namuac, Sanchez Mira, Cagayan, the appellant boarded his truck and not long thereafter suddenly grabbed the steering wheel from him and maneuvered the truck towards the victim who was walking on the left side of the road ***. It is not disputed that Jaime Vicente was the driver of the dump truck and was actually driving it when the appellant boarded until the incident occurred. Under such circumstances the presumption should be that Jaime Vicente was driving the truck when the vehicle bumped and ran over the deceased ***, Consequently, the prosecution's evidence must overcome this presumption"[4]

That is to recall the aforesaid constitutional provision on guilt having to be demonstrated as an accused is assumed to be innocent, on which reliance was placed by appellant. The Solicitor General, fully cognizant of its mandatory character, did, as was made clear, give his full support to the plea for acquittal. So it must be, for the evidence for the prosecution on which conviction was predicated by the lower court, to repeat, is vitiated by lack of credibility, not to mention its proceeding from a source whose bias was a strong, perhaps irresistible, factor, for incriminating somebody else to whom no motive could legitimately be ascribed and thus exculpating himself as a logical suspect, being the driver of the vehicle of death.

1. The failure of the testimony of Vicente to inspire credence was emphasized by appellant's counsel. That was to be expected. What strengthens his stand is the appraisal thereof in the Manifestation and Motion of the Solicitor General in terms of "its contrariness to common experience.[5]" Thus: "Before and during the incident: a) Jaime Vicente claims that while driving his dump truck eastward, appellant, standing on the left side of the road opposite his house, flagged him down ***. Appellant was going to the house of his father-in-law, also towards the east ***. Jaime Vicente also claims that upon boarding the vehicle, appellant seated himself at his left, that appellant's right foot was inside the truck even as his left foot was suspended and that appellant's right elbow was rubbing his left elbow and that he was in this position when he grabbed the steering wheel. ***. On the other hand, appellant declared that he was standing on the right side of the road just outside the gate of the yard of his house when he saw the dump truck. It was drizzling then. He flagged the truck to stop and although the truck stopped, it passed him, so that he boarded the truck from the rear ****. But whether appellant boarded from the left side, or from the right side or from the rear of the truck is belaboring an inconsequential point. Common experience tells us that one boarding a vehicle would look for, and stay at, the most comfortable place in the vehicle. If Jaime Vicente's version is to be believed, it would be that appellant chose a most uncomfortable place in the vehicle. This, we submit, is improbable, b) The road was admittedly a narrow barrio road on which two 6x6 dump trucks could hardly meet without one stopping to allow the other to pass ***. It was a dark night and raining that****. Yet, Jaime Vicente admits he was driving at the truck quite fast' ***. Given these circumstances and assuming that appellant did grab the steering wheel, Jaime Vicente's reflex action would have been to execute a counter-maneuver to prevent his vehicle from hitting the victim. Just as appellant had easily grabbed the steering wheel, Jaime Vicente could have also easily steered it away from the victim to avoid the incident. Assuming again that appellant did what Jaime Vicente claims he did, the truck would have veered to the very edge of the narrow road after it hit Dionisio Lacuata considering its speed. Since there is no showing that this occurred, the probability is that Jaime Vicente had full and complete control of the truck all along. And, more importantly, we can not ignore the possibility, perhaps probability, that he did not drive the vehicle with requisite care."[6] After which, it proceeded to appraise Vicente's testimony insofar as it related what occurred next. As set forth therein: "After the incident: a) Jaime Vicente admits that after seeing the victim run over, did not stop the truck, much less alight and check on what happened to the victim. Nor did he tell the appellant to go down and see what happened ***. Instead, Jaime Vicente continued to move his truck ***. To this effect, we quote the appellant's brief at pages 12 to 13 thereof, to wit: 'Under the circumstances, the only tenable reaction of a man in his position would have been to react with righteous indignation against appellant and also to render assistance to the victim of the latter's alleged misdeed. He did neither the one nor the other.' b) We doubt that Jaime Vicente reported the incident to the author; immediately that very night. For if he made an immediate report, the PC or police authorities would not have delayed investigation that night. They could have used the dump truck Vicente was then driving to go to the place of the incident.

However, the records show that the police went to the scene of a the incident only on the following day, March 29, 1972 ***. The prosecution failed to present Sgt. Sarandi to whom Vicente allegedly first made the report ***. Again, if Vicente's pretense were true, what he reported to Sgt. Sarandi was only that a person was run over at Narnuac. He did not inform who the victim was, or who was responsible, and what vehicle was used ***. This despite the fact that he allegedly spent the night in the Municipal Building ***. c) The truth of the matter is that Vicente reported to Chief of Police Juanito Buentipo at the Municipal Building only the following morning. He informed about a man who died in the middle of the road ***. This witness did not state then that appellant was the one responsible for the victim's death. Even in his report to the police as reflected in the Police Blotter *** which was entered on March 29, 1972 ***, Jaime Vicente did not mention the appellant as the culprit, d) The foregoing actuations of Jaime Vicente do not speak well of his credibility. His story is too unnatural to deserve any credence. But the trial court reasoned out that he did not immediately point the appellant to the authorities

because he wanted to protect the latter, being the husband of his first cousin ***. It should be stressed however that his relationship with the appellant is only by affinity ***. In the situation that Vicente was in, he would not sacrifice his own self-preservation because of his relationship to the appellant."[7]

2. Counsel for appellant in his brief laid considerable stress on the bias of Jaime Vicente, who, as the driver, "is necessarily the primary suspect." [8] He was, as therein pointed out, "actually included in the charge but had to be discharged only because the People needed him as a State witness." [9] The Solicitor General viewed the matter similarly. Thus: "There should be no doubt that Jaime Vicente is a biased and interested witness. Being the authorized driver of the truck that admittedly ran over deceased Dionisio Lacuata.. he became the primary suspect. This was even the impression of Emilio Lacuata, father of deceased ***. Jaime Vicente was in fact originally included in the indictment but subsequently discharged as a State witness on September 8, 1972 ***. Since, as earlier stated, there Were only two of them in the dump truck at the time of the incident, it is no cause for wonder that Jaime Vicente would seize the opportunity to throw the whole blame on the appellant. As observed by appellant's counsel, 'in a conflict between self-preservation and truth, the latter invariably comes out second-best. Jaime Vicente's testimony, motivated as it is by the overwhelming desire to save his own neck, cannot be credence,' ***. Indeed, the testimony of Jaime Vicente can not be considered as adequate basis for appellant's conviction," [10]

3. The submission of appellant is further strengthened by the contention that he could not possibly have any motive for perpetrating the act ascribed to him. There was, of course, the imputation that he entertained a grudge against the victim for having previously hacked him. As clarified in his brief, there was. no basis for such assumption. Thus: "Unfortunately for the prosecution, it was not the deceased but one Teddy Alma/an who hacked appellant in 1970 — not the deceased Dionisio Lacuata. And it is admitted in the evidence that the incident had since been settled, as. in fact, the case filed against said Teddy Almazan was withdrawn. The most that the prosecution would thus hope to accomplish with its evidence on this point is obviously, that appellant may have mistaken the deceased to 1 eddy Alma/an. But this is pure speculation. Considering that the headlights of the truck should have been focused on the road on which the victim was before the incident, it is not likely that appellant — assuming he had any bent to kill Teddy Almazan — would have mistaken the deceased for him." [11] The Solicitor General expressed his concurrence to such a submission in this manner: "The trial court, however, appears to have inferred the presence of motive from appellant's alleged statement to Jaime Vicente right after the deceased was run over that 'that is the person who hacked me' ***. We doubt, however, the merit this inference for several reasons. Firstly, it was not Dionisio Lacuata but one Teddy Almazan who hacked appellant in 1970. The case of hacking never reached the court, much less the police authorities, It was settled amicably by the Municipal Mayor of Sanchez Mira, Cagayan. These facts are evident from the testimony of Teddy Almazan himself who was a witness for the prosecution ***. Secondly, it can safely be assumed that on the night in question the headlights of the dump truck were on and focused on the road where the victim was. Assuming that appellant had still an axe to grind against Teddy Almazan, appellant could not have mistaken Dionisio Lacuata for said Teddy, Almazan because he knew Dionisio very well as they neighbors ***. Thirdly, no competent proof was presented to show the physical similarities of Teddy Almazan a deceased which could have led appellant to mistake one for other the other. And fourthly, given the situation that, as declared by Teddy Almazan, appellant had been hatching a revenge scheme since 1970. it is improbable that appellant would have chosen the place, the time, the means and the night in question to accomplish his evil design. For it must be noted that there is no showing that appellant knew that the truck would pass by the place where appellant was at that particular time, or that appellant knew that the victim would be in that particular vicinity on or about the time alluded to." [12]

4. The marked deficiency in the appraisal by the lower court, of the evidence would thus appear to be rather obvious. It cannot be said that the stage of moral certainty as to the guilt of appellant was reached. The liberty of a

citizen would be rendered insecure if on proof tainted by ambiguity and capable of a less sinister connotation, he could be held culpable. There is the traditional respect for the finding of facts of the judge who presided at the trial, but certainly it cannot be invoked where, as is quite apparent, circumstances of weight and influence have either been overlooked or misinterpreted.[13] What is more, the acceptance usually accorded to the conclusion reached by the court below inasmuch as it heard and observed the witnesses testify cannot negate the constitutional presumption of innocence.[14] The relevance of this excerpt from *People v. Dramayo*[15] is thus undoubted: "Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not then even called upon to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. There is need, Therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must be not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but moral certainty." [16]

It is by virtue of the above formulation that in at least five cases decided the past two years, the appellants were set free.[17]

WHEREFORE, the lower court decision of July 23, 1972 finding appellant Fermin Padirayon guilty beyond reasonable doubt of the crime of murder and imposing on him the penalty of reclusion perpetua with indemnification in the amount P12,000.00 to the family of the deceased Dionisio Lacuata with the further sum of P600.00 as reimbursement for funeral expenses, is nullified and set aside and the aforesaid appellant acquitted of such crime, his guilt not having been shown beyond reasonable doubt. Costs de oficio.

Barredo, Antonio, Aquino, and Martin, JJ., concur.

Concepcion Jr., J., is on leave.

[1] According to Article IV. Section 19 of the Constitution: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved. ***."

[2] The Solicitor General was assisted by Assistant General Jose F. Racela, Jr. and Solicitor Carlos N. Ortega.

[3] Decision dated July 23, 1974, 3-6.

[4] Manifestation and Motion in Lieu of Appellee's Brief. 1-2.

[6] Ibid, 6.

[6] Ibid, 6-8.

[7] Ibid, 8-10.

[8] Brief for Defendant-Appellant, 17.

[9] Ibid.

[10] Manifestation and Motion. 5-6.

[11] Brief for Defendant-Appellant. 19-20.

[12] Manifestation and Motion. 4-5.

[13] Cf. *People v. Gumahin*, L-22357, Oct. 31, 1967, 21 SCRA 729; *People v. Panganiban*, L-22476, Feb. 27, 1968, 22 SCRA 817; *People v. Pelago*, L-24884, Aug. 31, 1968, 24 SCRA 1027; *People v. Manos*, L-277791, Dec. 24, 1970, 36 SCRA 457; *People v. Beraces*, L-24016, March 27, 1971, 38 SCRA 127; *People v. Sabandal*, L-31129, Sept. 30, 1971, 41 SCRA 179; *People v. Dramayo*, L-21325, Oct. 29, 1971, 42 SCRA 59; *People v. Angcap*, L-28748, Feb. 29, 1972, 43 SCRA 437; *People v. Carandang*, L-31012, Aug. 15, 1973, 52 SCRA 259; *People v. Macaraeg*, L-32806, Oct. 23, 1973, 53 SCRA 285; *People v. de la Victoria*, L-30037, June 27, 1975.

[14] Cf. *People v. Alto*, L-18660, Nov. 29, 1968, 26 SCRA 342; *People v. Pagkaliwagan*, L-29948, Nov. 26, 1970, 36 SCRA 113; *People v. Macaraeg*, L-32806, Oct. 23, 1973, 53 SCRA 285.

[15] L-21325, October 29, 1971, 42 SCRA 59.

[16] *Ibid* 64.

[17] Cf. *People v. Zamora*, L-34090, Nov. 26, 1973, 54 SCRA 47; *People v. Alvarez*, L-34644, Jan. 17, 1974, 55 SCRA 81; *People v. Reyes*, L-36874, Sept. 30, 1974, 60 SCRA 126; *People v. Roa*, L-35284, Jan. 17, 1975, 62 SCRA 51; *People v. Joven*, L-36022, May 22, 1975.

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