

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PO2 ORLANDO FRIGILLANA ENTINES, ACCUSED-APPELLANT,

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is an appeal seeking the reversal of the Decision[1], dated February 8, 2013, rendered by the Regional Trial Court, Branch 83 of Malolos City, Bulacan in Criminal Case No. 508-M-06, finding accused-appellant PO2 Orlando Frigillana Entines guilty beyond reasonable doubt of the crime of murder.

The antecedent facts as gathered from the records are the following:

On February 15, 2006, an Infomation for murder was filed against accused-appellant. The accusatory portion of the Information reads:

“That on or about the 26[th] day of December 2005, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a .45 caliber pistol and with intent to kill one Eli Laya Y Hermoso, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault and shoot with the said firearm the said Eli Laya Y Hermoso, hitting the latter on the chest and different parts of his body which directly caused his death.

Contrary to law.”[2]

When arraigned[3], accused-appellant, with the assistance of his private counsel, entered a plea of not guilty to the charge. Trial on the merits then ensued after the pre-trial of the case was through.

The prosecution’s version, as summed up by the Office of the Solicitor General (OSG)[4], is as follows:

At around 12:30 in the afternoon of December 26, 2005, prosecution witness Perlita Tria was in the house of her brother-in-law, Eli Laya y Hermoso, situated in Marilao, Bulacan. Perlita was talking with her father Armando, her maid Liza and her maid's child, in front of the gate of Eli Laya's house. Eli Laya, on the other hand, was in front of the window of the house, smoking a cigarette. Suddenly, accused-appellant PO2 Orlando Frigillana Entines approached the gate of the house and shot Eli Laya four (4) times, hitting him on different parts of his body which resulted in his instantaneous death. All the while, Perlita witnessed the shooting incident since she was only about one and one half (1 ½) meters away from the crime scene.

Prosecution witness Claudia Honey Gonzales testified that, at around 12:00 o'clock in the afternoon of December 26, 2005, accused-appellant PO2 Orlando Frigillana Entines went to her store in Marilao, Bulacan and bought cigarettes. Around 12:30 in the afternoon, accused-appellant left the place. Claudia then heard four (4) gunshots. She went out of her store and proceeded to the crime scene. Along the way, she met accused-appellant who was walking fast with a gun tucked under his waist.

Dr. Reynaldo Dave, Jr., a Medico-Legal Officer of the Regional Crime Laboratory Office of Camp Olivas, San Fernando, Pampanga, testified that, based on his examination, Eli Laya sustained four (4) gunshot wounds. No

bullets were recovered from the body of Eli Laya as all the bullets had exit points. The immediate cause of death of Eli Laya was hemorrhagic shock due to a gunshot wound while the proximate cause of his death was the gunshot wound dealt by the first gunshot.

Accused-appellant PO2 Orlando Frigillana Entines, for his part, insists on his claim of where he was and what he did on December 26, 2005, to wit:

At around 12:00 o'clock noon to 1:00 o'clock in the afternoon of December 26, 2005, he was purportedly the duty investigator at Pasay Traffic Investigation Unit located at Tramo, Pasay City. He reported for work at 7:00 o'clock in the morning and his attendance was checked. He stayed in the office the whole day until 9:00 o'clock in the evening. He only went out on two (2) occasions to attend to vehicular accidents. First, he went to Manila Sanitary Hospital located in Leveriza St., Pasay City at 5:00 o'clock in the afternoon and, second, he visited EDSA extension near Diosdado Macapagal intersection in Pasay City, at 8:00 o'clock in the evening.

Accused-appellant's fellow policemen P/Supt Redrico Maranan, SPO2 Victoriano Sabuco, and P/Insp Danilo Espedillon all maintained that accused-appellant was on duty in Pasay City at the time of the murder incident.

In the assailed Decision, dated February 8, 2013, the court a quo found accused-appellant guilty of murder. The dispositive portion of the said Decision reads:

“WHEREFORE, conformably with the foregoing, the court finds the accused PO2 ORLANDO ENTINES y FRIGILLANA GUILTY beyond reasonable doubt of the crime as charged aggravated by treachery and evident premeditation, and is hereby sentenced to suffer the penalty of reclusion perpetua.

Further, accused PO2 ORLANDO ENTINES y FRIGILLANA is hereby ordered to indemnify the heirs of the victim in the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as exemplary damages as the crime was committed with one or more aggravating circumstances and to pay the costs.

Let a copy of this order be furnished the parties and counsels by registered mail.

SO ORDERED.[5]”

Not satisfied with the foregoing decision, the accused-appellant interposed the instant appeal before this Court raising the following errors that were purportedly committed by the trial court, to wit:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF MURDER DESPITE THE PROSECUTION WITNESSES' FAILURE TO POSITIVELY IDENTIFY HIM AS THE PERPETRATOR.

II.

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT THE OUT-OF-COURT IDENTIFICATION OF THE ACCUSED-APPELLANT IS TAINTED WITH SUGGESTIVE INFLUENCES.

III.

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT THE TESTIMONIES OF PERLITA TRIA AND CLAUDIA HONEY GONZALES ARE IMPROBABLE, IRRECONCILABLY INCONSISTENT AND CONTRADICTORY TO EACH OTHER.

IV.

THE COURT A QUO GRAVELY ERRED IN APPRECIATING MOISES LAYA'S TESTIMONY THAT THE ACCUSED-APPELLANT HAD A MOTIVE TO KILL THE VICTIM.

V.

THE COURT A QUO GRAVELY ERRED IN NOT APPRECIATING THE CORROBORATED TESTIMONY OF ACCUSED-APPELLANT.

In sum, the primordial issue raised by the accused-appellant in questioning the validity of his conviction for the crime of murder is whether or not the testimonies of the witnesses presented by the prosecution are credible enough to be worthy of belief.

Accused-appellant argues that Perlita Tria, the eyewitness, could not have seen the perpetrator because she testified as follows: The gunshots were fired fast and successively and she (Perlita) was very afraid. She was four (4) or seven (7) meters away from the perpetrator and a concrete fence measuring three and a half (3 ½) feet in height was between her and the latter who was wearing a cap. Upon hearing the first gunshot, she immediately pulled her father, her maid Liza and Liza's child inside the house. It was her first time to see the perpetrator. With these narration of facts made by Perlita Tria, the accused-appellant asseverated in his appeal that it was improbable for Perlita to have been able to see or identify the perpetrator. Thus, the trial court should not have taken into account Perlita's testimony. Similarly, accused-appellant believes that the testimony of the prosecution's witness named Claudia should not have been appreciated by the court a quo as circumstantial evidence.

Accused-appellant likewise asserts that the perpetrator's description given by the prosecution's witnesses does not reflect his looks and that the out-of-court identification made by Perlita of the accused-appellant was allegedly tainted with suggestive influences.

Lastly, accused-appellant contends that the testimonies of Perlita and Claudia were contradictory to one another and that the testimony of Moises Laya was not to be believed. The accused-appellant opined that it was his testimony that the court a quo should have believed.

After a careful and thorough review of the facts, together with the laws and jurisprudence applicable to this case, we sustain accused-appellant's conviction.

Undoubtedly, Perlita Tria was very certain that she saw accused-appellant shooting Eli Laya. During the trial, she testified as follows:

"Q: Madam Witness, after describing the person whom you said shot your brother-in-law several times, will you look around the courtroom and see for yourself if this accused, whom you described shot your brother-in-law, is present?

"A: Yes, sir.

"Q: Can you point to him?

"COURT

Witness pointed to accused PO2 Orlando Frigillana Entines inside the courtroom.

"Atty. Timtiman, Jr.

Q: After your brother-in-law was hit several times, what happened next, if any?

"Atty. Castro

Already answered, your Honor. According to the witness her brother-in-law died."[6]

Without a scintilla of a doubt therefore, Perlita, the eyewitness for the prosecution, positively identified accused-appellant as the person who shot and killed her brother-in-law, Eli Laya.

The accused-appellant, however, assails the credibility of Perlita Tria as a witness to the crime as records show that the trial court gave full credence to the testimony of the witnesses for the prosecution.

We find no basis or ground to agree with accused-appellant. It is well-settled that the issue of credibility is to be resolved primarily by the trial court because it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial. Thus, its findings on the matter of the credibility of witnesses are entitled to the highest respect and will not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which would have affected the result of the case.[7]

The trial court that rendered the assailed decision in this case had the singular opportunity to observe the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply; or the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.[8]

Verily, the alleged inconsistencies in the testimonies of Perlita and Claudia are of no moment. Given the frailties of the human mind and its capacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value. It is well-settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of the accused-appellant. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.[9]

When there is nothing in the records which would show a motive or reason on the act of the witnesses to falsely implicate the accused, identification should be given full credit. When there is no evidence and nothing to indicate that the principal witness for the prosecution was moved by improper motives, the presumption is that she was not so moved, and her testimony is entitled to full faith and credit.[10]

Corollarily, as the court a quo found the marks of credibility on the testimonies of the prosecution witnesses, it found the accused-appellant's defense of alibi as inherently weak. Hence, the court a quo discussed accused-appellant's defense at length, to wit:

“Noticeably, the evidence presented by the accused Entines relative to the defense of alibi did not demonstrate the physical impossibility for him to be at the scene of the crime when the crime was committed at around 12:30 p.m. on December 26, 25 considering that the witness P/SUPT

Rodrico Atienza Maranan testified only that he saw the accused in the office (Pasay City Traffic Enforcement Unit) at around 10:30 to 11:00 in the morning. Unfortunately, accused failed to account for his physical whereabouts after 11:00 a.m. up to around 5:30 p.m. which was the earliest entry of his signature in the police blotter (Exh. '9') which appears to be at 5:30 p.m. of December 26, 2005. Needless to say, it was physically possible for the accused to be present at the scene of the crime as he was positively identified by prosecution witnesses Perlita Tria and Claudia Honey Gonzales as the one who shot and killed the victim.”[11]

All told, the killing was indeed attended by the qualifying circumstance of treachery, which is duly alleged in the Information. The mode, manner and means of attack adopted by the accused-appellant insured the accomplishment of his purpose, i.e., the killing of the victim without giving the latter any opportunity to defend

himself or resist the attack. The firing of the gun at the victim was so sudden and unexpected that the latter, who was unarmed, was caught totally unprepared to defend himself or retaliate. There is treachery when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[12]

WHEREFORE, the instant appeal is hereby DENIED, and consequently, DISMISSED. Accordingly, the decision rendered by the court a quo on February 8, 2013 in Criminal Case No. 508-M-06 is hereby AFFIRMED with the MODIFICATION, however, that the award for exemplary damages is hereby increased from P25,000.00 to P30,000.00 in conformity with current jurisprudence on the matter and that all monetary awards are hereby decreed to earn interests thereon at the legal rate of six percent (6%) per annum from the date of finality of this decision until the same shall have been fully paid[13].

SO ORDERED.

Ybañez, and Paredes, JJ., concur.

[1] Rollo, pp.78-92

[2] Records, page 1

[3] See Order dated September 12, 2006, Records, page 126

[4] See Brief for the Appellee, Rollo, pp. 117-130

[5] Rollo, page 92

[6] Records, TSN dated December 12, 2006, pp. 5-6

[7] People vs. Jumamoy, G.R. No. 101584, April 7, 1993

[8] People vs Jacalne, G.R. No. 168552, October 3, 2011

[9] People vs Dadao, G.R. No. 201860, January 22, 2014

[10] People vs de Paz, G.R. No. 864, August 4, 1992

[11] Rollo, page 91

[12] People vs. Jumamoy, supra

[13] People vs. De los Santos, G.R. No. 207818, July 23, 2014

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