

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MEDARDO CASTELO Y DE CASTRO, DEFENDANT-APPELLANT.

G.R. No. L-48070. December 26, 1984

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is an appeal from the decision of the Court of First Instance of Batangas finding the accused Medardo Castelo y de Castro guilty beyond reasonable doubt of the crime of murder.

The accused was charged with the crime of murder in an information filed before the Court of First Instance of Batangas, Eighth Judicial District, Branch IV, Lipa City, committed as follows:

"That on or about the 23rd day of September, 1969, at about 11:40 o'clock in the evening, in Barrio Laiya, Municipality of San Juan, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with one Romulo Castelo y de Castro, who is still at large, both armed with firearms, conspiring and confederating together, acting in common accord and mutually aiding each other, with intent to kill, and with the qualifying circumstance of either treachery or evident premeditation, did then and there, wilfully, unlawfully and feloniously attack, assault and shoot with the said firearms, one Ricardo Villanueva, suddenly and without warning, thereby inflicting upon the latter gunshot and lacerated wounds, in different parts of his body, resulting in hemorrhage and shock, which directly caused his death" (pp. 4-5, rec.).

The accused, assisted by counsel de officio, pleaded not guilty upon arraignment on March 31, 1975.

The case was tried and judgment was thereafter rendered on September 23, 1977 with the following dispositive portion:

"WHEREFORE, and in view of the foregoing premises, the Court hereby renders judgment finding the accused, MEDARDO CASTELO, GUILTY beyond reasonable doubt, as principal, of the crime of Murder, with the qualifying circumstance of treachery, which includes nocturnity, and no other generic aggravating circumstance or mitigating circumstance, and sentences him to suffer the penalty of RECLUSION PERPETUA with the accessory penalties prescribed by law; to indemnify the heirs of the deceased Ricardo Villanueva, in the sum of TWELVE THOUSAND (P12,000.00) PESOS, without subsidiary imprisonment in case of insolvency, and to pay the costs. The accused shall be credited with four-fifths (4/5) of the period he was under preventive imprisonment pursuant to Article 29, of the Revised Penal Code, as amended by Republic Act No. 6127" (p. 24, rec.).

The case is now before this Court on appeal.

The prosecution, represented by the Office of the Solicitor General, filed a Manifestation in lieu of an appellee's brief recommending the acquittal of the accused.

The prosecution's version, which the lower court relied upon to make its finding of guilty beyond reasonable doubt, is narrated in the Manifestation of the Solicitor General, to wit:

"The prosecution, through alleged sole eyewitness, the barrio captain Remo Madlangbayan presented the following version:

"On September 23, 1969, at about 11:30 in the evening, Remo and his wife, Precing were going home from Bautro's store after a lengthy conversation with Rogelio de Torres, Ricardo Villanueva, Bautro and his wife, when Remo suddenly remembered he had something to say to Ricardo Villanueva, his overseer and helper in the family coconut plantation. (pp. 11-19, tsn., September 11, 1975). Remo told his wife to go home (pp. 11-19, tsn., id). He proceeded towards the rear part of Bautro's house where Ricardo Villanueva usually tethered his horse (p. 20, tsn., id). Near the kitchen of Bautro's house Remo heard several gunshots in succession (p. 21, tsn., id). He ducked, lay flat on his stomach and through a gap in a row of 'San Francisco' plants, saw Ricardo Villanueva 'staggering groggily' until he fell face down (p. 22, tsn., id.). Immediately thereafter, Remo saw the accused, Medardo Castelo, come out from behind the stable and his brother, Romulo, from behind a coconut tree (p. 24, tsn., id.). The brothers approached the body of Villanueva, the accused fired his gun at the latter's head, took the latter's pistol and said: 'Patawarin mo ako Carding at ako'y naganti lamang' (pp. 24, 29-30, tsn., id.). Then the brothers fled from the scene of the incident (p. 32, tsn., id.). Remo went home and wrote a letter to the Chief of Police of San Juan, Batangas, reporting the killing of Ricardo Villanueva and requesting that an investigation be conducted thereof (p. 35, tsn., id.).

"In support of Remo's testimony, the statements of the following persons, given before the San Juan Police a day after the date of the killing, were presented in court:

"Dominator Sornito, in his sworn statement (Exh. 'D', Record) declared that on September 23, 1969 at 11:40 in the evening, he heard successive gunshots; that he saw the accused acid his brother, Romulo, coming from the direction where the gunshots were heard; that upon seeing the body of the deceased, concluded that the brothers Castelo killed him; and that the accused carried a carbine although Romulo was not carrying a gun.

"Numeriano Sandro, in his sworn statement (Exh. 'C', Record) declared that on the night of September 23, 1969, immediately before the incident happened, he saw the brothers Medardo and Romulo Castelo and they told him:

"“x x PARENG NUMER, ako'y mayroong sasabi-hin sa iyo ay kung saan ka man pupunta ay huwag na huwag mong kaulitan na kaming magkapated ay narine, si CARDING (RICARDO VILLANUEVA) ay nariyan sa tindahan ni Ka Petang ay aming babantayang lumabas doon ay aming babarilin, hindi namin paliligtasin ngayong gabi iyan, at pag mate-tiempuhan din namin si APOLO (APOLO VILLANUEVA) ay papatayin di namin siya, kayat tahimik ka, lamang pareng Numer, basta't pagnakarinig ka ng putok ay tiyak na husay na si Carding, xx xx' (Exh. 'C', Record). (Italics supplied).

Sandro declared further that later, he met the accused and his brother running along the street and they told him, "Tapos na pareng Numer si Carding (Ricardo Villanueva)"; and that prior to this incident, the accused, had been shot by the deceased Villanueva" (pp. 133-135, Record).

The cause of death was determined in a medical examination conducted by Dr. Victoriano V. Salud on September 24, 1969. The medical certificate states the following:

"1. One wound from the back four inches from the left infra scapular region, that is the point of entrance. The bullet passes thru and thru passing the lungs and the heart to the left side of the sternum. The point of exit is less than two inches wide, five inches from the left nipple. The point of entrance is less than one inch.

"2. One wound from the back is seven inches below the infra scapular region to the left side of the sternum. This is the point of exit. The bullet passing thru and thru to the left lung and to the right side of the heart. The size of exit is less than two inches and the point of entrance is less than an inch.

"3. The other wound is from the left occipital region that is the point of entrance passing thru and thru to the

right upper temporal region. The size of entrance is less than an inch. The size of exit is less than two inches wide at the upper right temporal region. The bullet passes thru and thru the brain.

"4. The other wound is from the right side below the right chin to the left occipital region.

"5. The other wound is from the back of the distal portion of the left arm passing thru and thru the wrist to the left side of the chest two inches from the left nipple of the body. The bullet does not go out of the body.

"6. There are two lacerated wounds. One from the right side below the right chin, the other lacerated wound is from the back above the waistline. The cause of death was due to gunshot wounds resulting to hemorrhage and shock. All wounds are fatal except the two lacerated wounds. The deceased died last September 23, 1969 in Laiya Aplaya, San Juan, Batangas" (p. 4, CFI rec.).

The accused denied any participation in the ambush and killing of Ricardo Villanueva and presented an alibi. The version of the defense, summarized in the Manifestation of the Solicitor General is as follows:

"x x x The accused denied any participation in the killing of Ricardo Villanueva. He alleged that on the night of September 23, 1969, he was at the clinic of Dr. Ona and kept watch over his sick brother, Vicente, from 7:00 p.m. to 12:00 midnight without having left said premises (pp. 6--9, tsn., July 20, 1976). This was corroborated by his brother, Vicente Castelo (pp. 6-8, 11, tsn., July 19, 1976).

"To belie Remo's account that the latter had witnessed the commission of the crime, the defense presented Rogelio de Torres, one of the four persons who went to Bautro's store immediately prior to the killing of Ricardo Villanueva. De Torres, who is a godson of Remo and Precing, but a distant relative of the accused -- the accused and the father of De Torres being first cousins -- (p. 14, tsn., March 31, 1976), testified that on September 23, 1969 immediately after the shots were fired and while he was about to reach the front yard of his in-law's house, his ninang Precing called out his name, after which, Remo together with Precing arrived thereat asking what happened (pp. 17-20, tsn., March 19, 1976; p. 24, tsn., March 31, 1976); that his ninong Remo sent somebody to find out what happened (p. 22, tsn., March 19, 1976); and that together with his ninong Remo and ninang Precing, they went to the place where Ricardo Villanueva lay dead and it was there where his ninong Remo asked 'Sino kaya ang may kagagawan nito?'

"And to negate the theory of the prosecution, the defense presented as its own witness, Numeriano Sandro, who had previously given a statement before the police (Exh. 'C') implicating the accused and his brother, Romulo, as the persons who ambushed Ricardo Villanueva. Sandro, who is a first cousin of the deceased, Villanueva, testified among other matters, that on the day after the killing, Remo had him fetched by the policemen (p. 21, tsn., May 4, 1976) and brought to Remo's guest house where he was given several fist blows and kicks on the stomach by Sgt. Valdez and instructed to implicate the accused Medardo and Romulo Castelo as the persons who killed the deceased (p. 25, tsn., id); that after the beatings, he agreed to make the statement (pp. 24-26, tsn, id); that he did not see the brothers Medardo and Romulo Castelo, before or after, the killing, neither did they tell him of their plan to kill the deceased nor did they announce to him subsequently that their alleged victim was dead" (pp. 135--137, rec.).

The primordial issue for Our consideration is whether or not the lower court erred in giving credence to the lone testimony of Remo Madlangbayan, the prosecution's principal witness who testified to the identity of the assailants. Remo Madlangbayan testified categorically to the effect that the accused ambushed and killed Ricardo Villanueva on the night of September 23, 1969. He was the eyewitness. The lower court relied on his testimony to counter the alibi presented by the defense. The conviction of the accused for the crime of murder is based principally on the consideration that the defense of alibi is weak.

A serious study of the evidence on record leads Us to the conclusion that the lower court failed to consider the fundamental requisite that the conviction of an accused must be established upon the strength of its own evidence

rather than on the weakness of the defense.

WE REVERSE.

There is positive evidence to show that during the investigation conducted by the San Juan police immediately after the commission of the crime, Sandro and Sornito were found to be the ONLY witnesses to the crime. Thus, Vicente Peradilla, then the Chief of Police of San Juan, testified that the policemen he assigned to investigate the case informed him that they had all the eyewitnesses to the killing and that these were, Dominador Sornito and Numeriano Sandro. Peradilla testified as follows:

Q. You said that after learning of that ambush in Aplaya-Laiya, San Juan, Batangas, you sent three (3) of your policemen to investigate the incident, what time did they leave for Aplaya-Laiya to investigate the incident?

A. More or less three o'clock A.M. of the 24th day of September, 1969, sir.

Q. And then what time and date did they come back?

A. In the afternoon of the 24th of September and they were with the eye-witnesses, sir.

Q. More or less what time on the 24th of September, 1969 did these three come back with these eye-witnesses?

A. About three-thirty (3:30 P.M.), sir.

Q. And these policemen come back namely: Teofilo Sacristan, Sgt. Valdez and Sgt. Tejada, they informed you that they have with them all the eyewitnesses to that ambush incident?

A. Yes, sir.

Q. And they were referring of course to the two alleged witnesses Dominador Sornito and Numeriano Sandro?

A. Yes, sir.

Q. In other words, those were the other two eye-witnesses?

A. Yes, sir.

Q. And who among the three informed you that these two persons Dominador Sornito and Numeriano Sandro were the eye-witnesses of the incident?

A. The one in-charge, sir.

Q. May I know his name?

A. Sgt. Valdez, sir and the three of them, sir.

Q. So the three of them informed you that these Sornito and Sandro were the only eye-witnesses of the incident?

A. Yes, sir."

(T.S.N., Jan. 27, 1976, pp. 39-42; italics supplied).

Corporal Rufino Tejada, one of the officers who investigated the case, likewise, testified that when he and his fellow officers went to Barrio Aplaya-Laiya, barrio captain Remo Madlangbayan told them to talk to Dominador Sornito and Numeriano Sandro because they knew something about the case (T.S.N., Feb. 10, 1976, p. 16).

Dominador Sornito, who gave a sworn statement (Exhibit "D", p. 3, CFI rec.) implicating the accused and his brother in the ambush of Ricardo Villanueva, **DIED BEFORE THE TRIAL OF THE CASE**, as in fact said affiant

was NEVER PRESENTED IN COURT. The sworn statement of Sornito is therefore hearsay evidence and cannot be given any weight. However, the trial court erroneously admitted the sworn statement as evidence (T.S.N., March 2, 1976, p. 33). The error was compounded by the trial court's unwarranted dependence on such hearsay evidence as basis for finding the accused guilty of murder. The trial court referred to the statement of the deceased affiant Sornito in its decision (p. 11, rec.). The decision further stated that Sornito was one of the eyewitnesses to the commission of the crime (p. 20, rec.), which statement is not borne out by any of the testimonies for the prosecution. The procedure of the trial court is a patent violation of the constitutional right of the accused to confrontation (Sec. 19, Art. IV, 1973 Constitution). WE have ruled in the case of *People vs. Lavarias* (23 SCRA 1301) that "failure on the part of the alleged eyewitnesses to identify the culprit during the trial is fatal to the prosecution of the offense charged." The aforesaid case, penned by no less than then Justice, now Chief Justice Enrique M. Fernando, further stated:

"May the conviction be sustained by virtue of the affidavits previously executed by the above witnesses wherein appellant was pointed at as one of those who participated in the offense charged? The constitutional right to confrontation precludes reliance on such affidavits. Such a constitutional safeguard cannot be satisfied unless the opportunity is given the accused to test the credibility of any person, who, by affidavit or deposition, would impute the commission of an offense to him. It would be to disregard one of the most valuable guarantees of a person accused if solely on the affidavits presented, his guilt could be predicated. x x" (*People vs. Lavarias*, *ibid.*, p. 1306).

Numeriano Sandro, although he gave a statement to the effect of implicating the accused and his brother to the crime of murder, retracted his previous written sworn statement thus obliterating whatever value it had as evidence. Sandro in effect testified for the defense. It is worthwhile to consider Sandro's recantation in open court. He is a cousin of the victim, Ricardo Villanueva (T.S.N., May 4, 1976, p. 7). As a close kin of the deceased, Sandro would be expected to be deeply aggrieved by the killing. Generally, no amount or kind of consideration would suffice to assuage that feeling of animosity against the killer. However, Sandro not only retracted his statement implicating the alleged killer, the herein accused; but came to the court as well, to testify as a witness for the accused.

It is important to note that Sandro was forced to make a statement implicating the accused as the killer. He positively declared that he was maltreated by a certain Sgt. Valdez who forced him to implicate the accused and his brother (T.S.N., May 4, 1976, pp. 25-30). The prosecution failed to rebut this.

It was only when the prosecution did not have the necessary witnesses to convict the accused that Remo Madlangbayan was included as one of the eyewitnesses to the ambush.

The record shows that the information for murder against the accused was filed purely on the basis of the sworn statements of Sornito and Sandro.

It appears of record that Remo did not have any significant statement to add to those already given by Sornito and Sandro on September 24, 1969. Since the prosecution did not have any eyewitnesses in 1975, Remo belatedly gave his statement before the Fiscal's Office, more than five years after the incident.

The reason offered by Remo Madlangbayan for his failure to give an account of the incident to the San Juan Police was that he was too busy attending to the body of the deceased, waiting for the latter's parents to come and for the doctor to conduct an autopsy (T.S.N., September 11, 1975, p. 51). A delay of a week may be reasonable, but certainly not a delay of about five (5) years. Between September 23, 1969 (the day the killing happened) and January 3, 1975 (the date when Remo executed his sworn statement implicating the accused before the Fiscal's Office), a total of five years and three months had elapsed. The long delay goes against the very grain of human

experience. If his testimony were true, he was the only witness thereto who alone could bring justice to where it is due. It is truly inconceivable that Remo waited for more than five years to shed light on the commission of the crime when it was his bounden duty to do so considering that he had been a barrio captain of Barrio Aplaya-Laiya, since 1950 (T.S.N., September 11, 1975, pp. 8-9).

In an effort to salvage the situation, the prosecution alleged that Remo sent a "letter" to the Chief of Police of San Juan immediately after the incident supposedly informing the latter of the killing (T.S.N., September 11, 1975, p. 35). But the "letter" was never presented by the prosecution as evidence. The claim of the prosecution is that the letter is nowhere to be found (T.S.N., November 3, 1975, p. 52). What is more intriguing is the fact that Vicente Peradilla, the Chief of Police of San Juan at the time of the incident to whom the letter is addressed, testified that he did not even see the "letter" of Remo. Peradilla testified as follows:

"Q. Now you said that you responded to a call made sometime in the early morning of September 24, 1969?

Atty. Manalo: 'Responded to a call.'

Atty. Santos: I am not yet finished with my question, your honor.

. . . by reason of a letter brought to the police headquarters of San Juan, Batangas Now were you able to read that letter?

Peradilla: No, sir. I was not able to read it.

Q. Did you not even see the letter?

A. I did not see the letter, sir" (T.S.N., January 28, 1976, pp. 40-41; Italics supplied).

Even in the remote possibility that such "letter" existed, it did not reveal information regarding the circumstances of the crime or who were the culprits. All that the prosecution witnesses declared was that the same merely gave information that Ricardo Villanueva was ambushed with a request that an investigation of the incident be conducted.

Teofilo Sacristan, one of the policemen who testified for the prosecution, said:

"Q. And you said that there was a report in the form of a letter, who of you, received this particular letter?

A. I was the one, sir.

Q. Did you read this letter?

A. Yes, sir.

Q. What did it say?

A. The barrio captain Remo Madlangbayan was request-ing for the policemen since Ricardo Villanueva was ambushed according to him, sir" (T.S.N., Nov. 3, 1975, pp. 11-12).

Vicente Peradilla, the Chief of Police of San Juan, Batangas, testified:

"Q. And he tell you whose letter it was that was brought about by this Visaya?

A. Yes, sir. He informed me that it was a letter from Barrio Captain Remo Madlangbayan, sir.

Q. Now then, what else did he inform you?

A. He informed me that Ricardo Villanueva was ambushed, sir" (T.S.N., January 27, 1976, pp. 9-10).

It can be deduced from the above testimony that the information on the identity of the killers never formed part of the contents of the letter handed to the police, even if such "letter" existed at all.

The trial court's decision points to the eye-witness account of Remo Madlangbayan. Remo positively identified the accused and his brother to be the aggressors who ambushed and killed Ricardo Villanueva. However, a careful reading of the testimony of Remo Madlangbayan would disclose that it is replete with statements inconsistent with each other, highly incredible, or negated by the testimony of other prosecution witnesses.

Remo Madlangbayan testified on direct examination that he was, more or less, fifteen meters away from Ricardo Villanueva when the latter was shot and killed by successive gunshots (T.S.N., September 11, 1975, p. 23). After the accused shot Ricardo Villanueva on the head, Remo Madlangbayan further testified that he heard the accused utter the words "Patawarin mo ako Carding at ako'y naganti lamang" (T.S.N., September 11, 1975, p. 30). WE find it incredible for Remo Madlangbayan to have heard the exact words of the accused from that distance of fifteen meters, considering further that the horse of the deceased, which was more or less, two and a half meters away from where the deceased lay (T.S.N., September 11, 1975, pp. 91-92), would naturally have neighed loudly in fright or thumped its feet frantically in panic in an effort to run at the burst of gunfire.

Remo Madlangbayan positively identified the Castelo brothers as the killers of Ricardo Villanueva, to wit:

"Q. In fact you have related this incident to the authorities, the police authorities?

Madlangbayan: The police knew that I knew what happened, because in my letter to them, I pinpointed the two brothers, sir" (T.S.N., September 11, 1975, p. 47).

However, the other prosecution witnesses failed to support the above testimony of Madlangbayan. Patrolman Teofilo Sacristan testified that Ramo Madlangbayan, in the "letter" he made, requested them to conduct an investigation regarding the ambush of Ricardo Villanueva (T.S.N., November 3, 1975, pp. 11-12). There was no mention at all as to the circumstances of the crime nor of the identity of the killers.

Vicente Peradilla on the other hand, testified as follows:

"Q. When the incident was brought to your attention in the early morning of September 24, 1969, were you informed of any suspects?

A. Yes, sir.

Q. Who gave the names of those suspects?

A. The person who brought the letter. He informed my policeman Sacristan" (T.S.N., January 28, 1976, pp. 34-35).

It would be noted that the information on the identity of the killers never formed part of the contents of the "letter" handed to the police. The messenger who delivered the "letter" was not even presented as a witness. At most, he could have testified on hearsay information.

Madlangbayan failed to narrate a number of material details as would be expected of a credible eyewitness to a crime. He failed to describe the guns allegedly carried and used by the accused and his brother, or the gun which the accused allegedly took from Ricardo Villanueva and tucked to his waist, the clothes worn by the accused and his brother at the time, the reaction of the horse of the deceased at the time of the shooting and the specific contents of his letter to the Chief of Police.

What strengthens Our belief that Remo Madlangbayan is a biased witness for the prosecution is that he has a malicious and ill motive to testify against the accused. This fact was adduced in the trial where evidence, both oral

and documentary, positively showed that Remo Madlangbayan harbored a grudge against the accused.

In this regard, We agree with the conclusion arrived at by the Solicitor General in his Manifestation which pointed the bias of Remo Madlangbayan, to wit:

"On September 12, 1965, while Remo and his henchmen were drinking in his house in Aplayai-Laiya, the accused was fetched from his house upon Remo's order (pp. 11-13, tsn., July 20, 1976). Upon reaching Remo's house, the latter poked a gun at his back and when he tried to parry the same, Remo and one of his men held him by the hands (p. 17, tsn., id.). When finally he was able to free himself from their hold, he ran away, but Remo ordered Ricardo Villanueva to shoot him (pp. 15-18, tsn., id.). He sustained a bullet wound on the front part of his body, as, in fact, he exhibited in open court the scar from that bullet wound (p. 21, tsn., id.). When the accused fell, Remo poked a gun on his forehead, but removed it, saying he's already dead (p. 24, tsn., July 20, 1976). The accused was able to escape despite his serious wound. He gave an ante mortem statement of this incident to the San Juan Police (Exh. 'O', Record; p. 8, tsn., August 24, 1976) as a result of which a criminal case No. 2319 for Frustrated Murder against Remo Madlangbayan and Rica Villanueva was filed on September 13, 1965 in the Municipal Court of San Juan, Batangas (p. 6, tsn., id.).

"The accused, however, never received a subpoena on the case and he learned, subsequently, that the same had been dismissed (p. 43, tsn., July 20, 1976; p. 28, tsn., August 14, 1976).

"The accused believed that the reasons why Remo ordered his henchmen to shoot him as, in fact, they did were: (a) his refusal to become Remo's bodyguard and political follower (p. 33, tsn., July 20, 1976); and (b) his refusal to obey Remo's order to leave the land on which he has been residing since birth but which land, unfortunately, is owned by Remo's aunt (pp. 34-35, tsn., id.). Remo's order for the accused to vacate the premises came subsequent to the latter's refusal to become his bodyguard (p. 37, tsn., id.).

"It is thus clearly established that Remo Madlangbayan was a biased witness, seeking retribution for the filing of a criminal complaint against him by the accused. This Court, in the case of *People vs. Moreno*, October 23, 1978, 85 SCRA, held:

"We have conscientiously evaluated Norteza's uncorroborated and contradicted testimony. Our conclusion is that it cannot be accorded any credence. Consequently the guilt of the seven appellants implicated by him was not established beyond reasonable doubt.

"It is not merely the long delay in the giving of his testimony that impairs its veracity and engenders the notion that it might be fabricated. What strongly militates against his credibility is the undeniable fact that he was a follower of Mayor Cerna and therefore it is not believable that he would have been invited by the appellants (some of whom were confirmed political enemies of Mayor Cerna) to join the conspiracy to kill the mayor (1846, tsn., January 11, 1972). And because he was a follower of Mayor Cerna, it is not surprising that he was used as a prosecution witness in this case' [Italics supplied; at p. 670]" (Manifestation in Lieu of Appellee's Brief, pp. 138-139, rec.).

As aforesaid, the prosecution must prove the guilt of the accused upon the strength of its own evidence and not by the weakness of that of the accused (*People vs. Torio*, 126 SCRA 266).

While the defense of alibi frequently deserves little consideration because it is easily fabricated, it is not always false and without merit and when coupled with the improbabilities and uncertainties of the prosecution evidence, the defense of alibi deserves merit (*People vs. Delmendo*, 109 SCRA 350). Indeed, We must "emphasize the fact that courts should not at once look with disfavor at the defense of alibi. xx xx When an accused puts up the defense of alibi, the court should not at once have a mental prejudice against him. For, taken in the light of all the evidence on record, it may be sufficient to acquit him xx xx" (*People vs. Tabayoyong*, 104 SCRA 753, citing *People vs. Villacorte, et al.*, 55 SCRA 640, 655). It would be worthwhile to add that "every circumstance against

guilt and in favor of innocence must be considered. Suspicion x x should not sway judgment against the accused (People vs. Clores, 125 SCRA 67). THE ACCUSED NEED NOT PROVE HIS INNOCENCE BECAUSE THAT IS PRESUMED (Section 19, Article IV, 1973 Constitution).

WHEREFORE, ON REASONABLE DOUBT, THE JUDGMENT OF THE LOWER COURT, DATED SEPTEMBER 23, 1977, IS HEREBY REVERSED, AND APPELLANT MEDARDO CASTELO Y DE CASTRO IS HEREBY ACQUITTED. NO COSTS.

SO ORDERED.

Aquino, Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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