

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF VS. ADRIANO SALAZAR AND PABLITO MASONGSONG, ACCUSED. ADRIANO SALAZAR, ACCUSED-APPELLANT.*G.R. No. L-32858. August 19, 1974*

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fbd766ee5a67/>**AQUINO, J.:**

Fe Reyes-Comea, thirty-seven years old, the sole prosecution eyewitness, testified that at around eleven o'clock in the evening of January 30, 1970, she and her husband, Agapito Comea, the barrio captain, were making copra in the kiln near the house of Marcelo de Gala, located in Barrio San Vicente, General Luna, Quezon Province. The kiln was illuminated by a de gasa lamp.

While Comea was feeding the furnace of the kiln with fuel, Fe, who was at a distance of two arms' length from him, heard footsteps behind them. On turning her head, she saw Adriano Salazar at a distance of about three arms' length, aiming his gun at Comea (who was in a standing position) and firing it at the latter's back. Only one shot was fired. Pablito Masongsong was behind Salazar. After shooting Comea, Salazar said to Masongsong: "Tayo na pare at patay na".

Fe approached her fallen husband. He was mortally wounded on the left side of his back. The bullet exited in front between the first and second ribs near the clavicle. On realizing that Comea was dead, Fe screamed and cried for help. She asked Balbino Racelis, who had answered her call, to summon a policeman. De Gala and Pio Francisco summoned policemen.

Jovencio Glifonea, the Chief of Police, and some policemen arrived at the kiln at around two o'clock in the morning of the next day, January 31st. They investigated the killing. The investigation lasted up to five-thirty. At six o'clock, Glifonea went to the residences of Salazar and Masongsong and informed them that Fe Comea had accused them of having killed her husband. Fe had known Salazar for a long time. Masongsong was defeated by her husband in the election for barrio captain. Fe denied that she was sleeping in De Gala's house when her husband was shot.

Doctor Maria de Rama-Apurado, the Municipal Health Officer, found that there was a gunshot wound of entry on the back of the thirty-six-year old victim, near the "spinal groove at the level of the third thoracic vertebrae, fracturing the same, going anteriorly and upwards, damaging the lungs and aortic vessel, fracturing the first and second ribs, clavicle from its attachment to the sternum, left side, lungs visible at the point of exit". The wound of entry had a diameter of three to four inches. It was circular in shape. It had a lacerated medial portion, four inches long. The wound of exit had a diameter of two inches. The cause of death was shock due to hemorrhage (Exh. D and E). (Comea had ten children).

The killing of Comea, was provoked by the fact that he was the principal prosecution witness in the theft case filed in September, 1969 by Elpidio Lopez against Salazar's wife and his relatives (Exh. A and B). That case was dismissed on September 21, 1970 or after Comea's demise.

On the basis of the sworn statement of Fe Reyes, dated January 31, 1970, pointing to Salazar and Masongsong as the culprits, the Chief of Police on February 1, 1970 filed against them a complaint for murder. Salazar waived the preliminary investigation. The Fiscal filed an information for murder against them on April 10, 1970. After trial, the Circuit Criminal Court at Lucena City rendered a judgment, convicting Salazar of murder, sentencing him to reclusion perpetua and ordering him to indemnify the heirs of Agapito Comea in the sum of P12,000 and to pay the costs (Criminal Case No. CCC-IX-60-Quezon [70]). Masongsong was acquitted for insufficiency of evidence. Salazar appealed.

Appellant Salazar contends (a) that Fe Reyes Comea might have been honestly mistaken in her identification of the accused, (b) that the trial court erred in not taking into account that the victim had many enemies, and (c) that Salazar's alibi should have been given credence. The crucial issue is whether Fe Comea's testimony is sufficient to convict appellant Salazar. We agree with the trial court in its appraisal of her credibility. It said:

"The Court has subjected her testimony to a painstaking scrutiny and found nothing therein to detract from its veracity. She identified Adriano Salazar as the gunman who fired the fatal shot that hit the victim on the back.

"Opportunity for identification of the assassin was favorable. The copra kiln where the victim was shot was illumined by a de gasa lamp and the surrounding area, as admitted by defense witness Melecia Rabe, was level ground, and newly cleared as described by the widow.

"Adriano Salazar was about 3 arms-length behind the victim and had his body a little bent forward when he aimed and fired the shot... Fe Comea's testimony is clear, positive and devoid of any sign of artificiality. Possibility of an honest mistake on her part in identifying the two accused is remote as both of them are well-known to her and residents of the same barrio where she and her deceased husband were living.

"Upon arrival of the police authorities a few hours after the shooting she fingered Adriano Salazar as the gunman with the other accused Pablito Masongsong behind him. And in the preliminary examination before the municipal judge of General Luna the day after the commission of the crime (page 3, Record), she reiterated her identification of the two accused as her husband's assassin. This prompt identification of the accused by Fe Comea precludes all possibility of bad faith and fabrication on the latter's part."*

Salazar and Masongsong, farmers, thirty-seven and twenty-nine years old, respectively, declared that they were in their respective homes at the time the shooting was perpetrated. Salazar's alibi was corroborated by his wife, Carmelita Forbes, and by Wilfredo Leynes and Edgardo Caraig.

Melecia Rabe, the wife of Marcelo de Gala (who did not want to testify for Salazar) declared that Fe Reyes could not have witnessed the shooting of her husband because Fe was actually asleep in her house or De Gala's house, when Comea was shot. Melecia said that the shot awakened her and Fe. They went to the kiln and saw Comea's prostrate body near the furnace. Fe Reyes rebutted the testimony of Melecia Rabe.

Salazar's house was about five hundred meters away from the scene of the crime while Masongsong resided at a place about one kilometer from the kiln. It would take half an hour or less to walk from Salazar's place to the kiln.

Considering that Salazar was positively identified by the victim's wife as the gunwielder, his alibi cannot be given credence. Moreover, it was possible for him to go to the scene of the crime and return right away to his house after the shooting because it was only half a kilometer away. Generally, in order that an alibi may be credible, the accused should establish that it was impossible for him to have been at the place where the crime was committed at the time of its commission (*People vs. Resayaga*, L-23234, December 26, 1973, 54 SCRA 350; *People vs. Lumantas*, L-28355, July 17, 1969, 28 SCRA 764).

It is true that Salazar's conviction is predicated mainly on the testimony of a single eyewitness, Mrs. Comea. But,

as already noted, her testimony appears to be credible. "The testimony of a single witness may be sufficient to produce conviction if it appears to be trustworthy and reliable" (People vs. Templonuevo, 106 Phil. 1003; People vs. Zabala and Lusanta, 86 Phil. 251; People vs. Sope and Cruz, 75 Phil. 810, 813 and cases cited therein; People vs. Argana, L- 19448, February 28, 1964, 10 SCRA 311).

WHEREFORE, finding the errors assigned by the appellant to be not sustainable, the trial court's judgment is affirmed with costs against him. So ordered.

Zaldivar, (Chairman), Fernando, Barredo, and Fernandez, JJ., concur.
Antonio, J., took no part.

* Fe Cornea's sworn statement before the Municipal Judge reads:

"T. Na kagabi pitsa 30 ng Enero 1970, saan ka naroon? — S. Naroon po ako sa aming tersiohan sa lupa ni Elpedio Lopez sa bario ng San Vicente General Luna, Quezon.

T. Ang iyong asawa na si Agapito Comea saan naroon noonding gabing iyon? — S. Naroon din po sa nabanggit na barrio kasama ko.

T. Noon bang gabing iyon na nabangit sa unahan nito, ano ang ginagawa ng iyong asawa "Agapito Comea"? — S. Nagloloto po ng lukad sa tapahan.

T. Ano naman ang nangyari sa iyong asawa Agapito Comea sa kanyang pagloloto ng lukad? — S. Binaril po.

T. Sino ang bumaril sa kay Agapito Comea? — S. Si Adriano Salazar po, kasama si Pablo Masongsong.

T. Ilang bisis baril ni Adriano Salazar at Pablo Masongsong itong si Agapito Comea? — S. Isang potok po lamang ng baril ni Adriano Salazar, na siyang pagkabulagta ni Agapito Comea, doon sa kalapit ng butas ng hurno ng tapahan.

T. Papaano binaril ni Adriano at Pablo itong si Agapito Comea? — S. Nakatalikod po si Agapito na kaharap sa butas ng hurno ng tapahan, ng barilin.

T. Ang ibig mo bang sabihin ay na sa likoran ni Agapito itong si Adriano at Pablo ng barilin itong si Agapito Comea? — S. Opo.

T. Anong klasing baril ang ginamit ni Adriano Salazar? — S. Hindi ko po malaman kong anong klasing baril iyon, kita ko lamang pong nakahaya tuloy putok.

T. Saan tinamaan itong si Agapito Comea? — S. Sa kaliwang likod po tinamaan.

T. Bakit mo nasabing si Adriano Salazar ang bumaril sa kay Agapito Comea, na kasama si Pablo Masongsong? — S. Kitang-kita ko po sapagkat maliwanag ang ilawan na de Gasa na kasabit sa tapahan.

T. Pagkatapos na barilin ang iyong asawa Agapito Comea, ano pa ang sumonod na pangyayari kong mayroon man? — S. Tumakbo po silang dalawa Adriano Salazar at Pablo Masongsong.

T. Ano pa ang sumonod na pangyayari kong mayroon man? — S. Nilapitan ko po ang aking asawa tuloy akong nagsisigaw.

T. Saan, kailan at anong oras nangyari ang bagay na ito? — S. Kagabi po pitsa 30 ng Enero 1970, sa ganap na alas 11:00, humigit komolang, sa tapahan na natatayo sa bario ng San Vicente, General Luna, Quezon.

T. Bago mangyari ang bagay naiyon, mayroon bang ibang katolong kayong magasawa sa pagkakalibkib? — S. Mayroon poe si Marcelo de Gala, Francisco Pio at kami nga pong magasawa, na pagkatapos ng pagtikal ay

umalis na silang dalawa Marcelo at Pio, at kami na lamang pong magasawa ang natira sa tapahan."

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