

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO ANDASA ALIAS “EDDIE”, ACCUSED-APPELLANT.

G.R. No. 101022. February 27, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-appellant, Eduardo Andasa, was convicted of the crime of murder in a decision, dated 22 November 1989, of the Regional Trial Court, Branch XXVIII of Iloilo City.[1] He was sentenced to suffer an indeterminate penalty of imprisonment, ranging from eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, with the accessory penalties provided by law; to indemnify the heirs of the deceased, Martin Andea, in the amount of Thirty Thousand (P30,000.00) Pesos, and to pay the costs.

The accused appealed the trial court's decision to the Court of Appeals, raising the sole assignment of error that the trial court erred in finding the accused guilty of the crime of murder. On 28, June 1991, the Court of Appeals promulgated a decision[2] affirming the judgment of the court a quo but modifying the penalty to reclusion perpetua and increasing the civil indemnity from P30,000.00 to P50,000.00. Considering that the penalty determined by the Court of Appeals is reclusion perpetua, the case has been referred to us for final review.[3]

The facts are as follows:

"At around 9:00 o'clock in the evening of 3 May 1987, while a dance was going on in celebration of the May Flower Festival at Barangay Bungol, Poblacion Alimodian, Iloilo, Martin Andea was drinking whiskey together with accused-appellant Eduardo Andasa, Nicanor Cablada, Jr., Adimas Hipalin and Jimmy Quiraos about a meter outside the dancehall. They were all squatting side by side except accused-appellant who was squatting behind Martin Andea.

"Accused-appellant who was about less than an arm's length behind Martin Andea and without uttering a word, shot the latter once in his back. As the victim fell to the ground, accused-appellant put the gun under his right armpit and walked casually to the dancehall.

"The Chief of the Barangay Tanod of Bungol, Santiago Maganto, and other barangay tanods who witnessed the shooting of the victim by the appellant did not arrest the latter because they were not armed and besides, accused-appellant was reputed to be a member of the N.P.A.

"The incident was immediately reported to the police authorities of Alimodian by Eddie Alipunga but he did not reveal the identity of the accused for fear of reprisal from the NPA.

"Pat. Angelo Anglaser of the INP of Alimodian conducted an investigation only in June 1987, a month after the incident was reported by Eduardo Alipunga, because barangay, Bungol, Alimodian, was an NPA infested area. It was after the Philippine Army cleared the area of NPA that he conducted an "on the spot" investigation, and also took the sworn statement of Eduardo Alipunga and Nicanor Cablada, Jr. while he told the other witnesses just to testify in court.

"The post-mortem examination on the cadaver of the victim conducted by Dra. Maria Winefreda Cainoy, the Rural Health Physician of Alimodian, Iloilo reveals that the victim sustained a gunshot wound at the back which penetrated the internal organs piercing through the diaphragm, the lower lobe of the left lung and the posterior left cardia ventricle.

"Dr. Cainoy testified that the victim's assailant was at the back considering that "the wound was straight", "the character of the wound and the entry of bullet" and the position of the assailant is on the same level of the victim.

"Accused-appellant Eduardo Andasa testified that between 9:00 and 10:00 in the evening of 3 May 1987, he went to Brgy. Bungol, Alimodian to attend the dance party. Upon reaching the place, he sat near the stall of Norma Alipuangan and Fely Ortiz situated near the entrance of the dancehall.

"He saw Martin Andea outside the dancehall roaming around with a glass of whisky on his hand. Martin Andea offered him a drink and when he was about to receive the whisky, he heard a gunfire coming right in front of them, and then he saw Martin Andea fall down with his head on Andasa's feet. He shoved the head of Martin Andea aside, and helped his companions gather their goods and accompanied them in going home.

"Accused-appellant denied having a gun during the incident.

"Witness Fely Ortiz testified that on the night of 3 May 1987 she was also at the place where the dance was held as she peddled and sold her goods beside the dancehall, together with other co-vendors, namely, Dolores and Norma.

"At around 9:00 in the evening, accused Eduardo Andasa, whom she knew as a conductor of a jeepney, was seated and was conversing with them at her stall; while Martin Andea, whom she knew as a caretaker of the Alimodian cockpit, was drinking liquor together with his other companions, about an arm's length away from her stall.

"A few moments later, she saw Martin Andea stand up in front of Eduardo Andasa and offered the latter a glass of wine, but before he could hand it over, a shot was fired and Martin Andea fell to the ground between Dolores and Eduardo Andasa. She saw blood flowing at his back.

"She recalled that after the shot, Eduardo Andasa merely stood up and helped her gather her goods, and they transferred to a safer place and after which, they all went home while Eduardo Andasa went towards the garage of his employer at the downhill portion of the Alimodian Public Market.

"Witness Norma Alimpuangan corroborated the testimony of her friend, Fely Ortiz. She testified that it was not Eduardo Andasa who shot Martin Andea because she did not see the accused commit the act nor was he armed with a gun when the incident took place. She further testified that she heard the shot coming from the uphill portion of the dancehall."^[4]

After carefully deliberating upon the evidence on record, we are fully convinced that the lower court committed no error in finding the accused Eduardo Andasa guilty as charged. The issue raised by accused-appellant is basically factual and involves essentially the credibility of the witnesses.

Appellant capitalizes on the fact that the crime which took place on 3 May 1987 was reported and entered in the police blotter of the PNP in Alimodian, Iloilo as having been committed by an unknown person or persons, and that it took more than one (1) month after the crime was committed before the case was filed in court, naming herein appellant as the assailant of Martin Andasa. He contends that the testimony of the prosecution witnesses that they immediately knew the identity of the accused appellant as the assailant contradicts the police report that the assailant was unidentified or unknown. Thus, according to him, the theory of the prosecution is not convincing and is contrary to human nature. This contention of appellant is without merit.

As correctly held by the Court of Appeals, and we quote:

"x x x The reason why the assailant is unidentified in the police blotter is established by the evidence to be due to the fact that the prosecution witnesses believed that the accused was a member of the NPA and they were afraid of the reprisal by the NPA (TSN, 10 May 1988, p. 5)."[5]

Such initial reaction of the prosecution witnesses in refusing to identify the assailant whom they believed to be an NPA member is understandable when we consider the fact that they are simple farmers. Their fear of the NPA is entirely human and quite expectable and should not detract from their credibility. The fear of the NPA by civilians is a matter of judicial notice. It is noteworthy, however, that once they (witnesses) were assured that the accused was not a member of the NPA, they immediately reported the identity of the assailant to the police authorities and thereafter an information against the appellant was filed with the proper court.

On the other hand, the bare denial of the accused that he committed the crime is not sufficient to overcome the testimony of the prosecution witnesses who positively identified the accused as the person who shot Martin Andea on 3 May 1987. Well-settled is the rule that greater weight is given to the positive identification of the accused by the prosecution witnesses than to the accused's denial and explanation concerning the commission of the crime.[6]

Accused-appellant's other arguments, such as, that the prosecution witnesses are either related to the victim or were his friends and that there was no motive for him to kill the victim, are likewise without merit. As ruled by the Court of Appeals, to which we agree:

"There is however no evidence that the testimonies of the prosecution witnesses are biased.

"Relationship of the prosecution witnesses to the victim does not necessarily disqualify them as biased (People vs. Legaspi, 151 SCRA 670, 678)."

x x x x x

"Motive is, however, important in cases where there is doubt as to whether the defendant is or is not the person who committed the offense (Ebajan vs. Court of Appeals, 170 SCRA 178).

"The eye-witnesses for the prosecution clearly and positively identified the accused-appellant as the assailant."[7]

In a long line of decided cases, we have ruled that where the accused is positively identified as the culprit, motive is not essential to conviction.[8]

The appellate court correctly held that there was treachery in the commission of the crime.

"Considering that the appellant suddenly shot the victim from behind, treachery as defined in Article 248, par. 1 of the Revised Penal Code qualified the killing to murder."[9]

Finally, we agree with the Court of Appeals that -

"As no aggravating and mitigating circumstances were proven in this case, the penalty for murder should be imposed in its medium period or reclusion perpetua (People vs. Norberto Clores y Coral, G.R. No. 82362, 26, April 1990)."[10]

As aforesaid, the issue raised by appellant is one that questions the credibility of the prosecution witnesses. In a long line of cases, this Court has held that where the issue is on the credibility of witnesses, generally the findings of the court a quo will not be disturbed on appeal since it was in a better position to decide the question, having heard and observed the demeanor of the witnesses, unless it has plainly overlooked certain facts of substance and value which, if considered; could affect the result of the case. We find no exception to this rule in this case that

would justify us to overturn the factual and legal conclusions of the lower courts.

WHEREFORE, the decision of the appellate court dated June 28, 1991 is hereby **AFFIRMED**. Costs against appellant.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Regalado, and Nocon, JJ., concur.

[1] Penned by Judge Edgar D. Gustilo, in Criminal Case No. 30810, entitled "People of the Philippines vs. Eduardo Andasa"

[2] Penned by Justice Fernando A. Santiago with the concurrence of Justices Pedro A. Ramirez and Fermin A. Martin, Jr. in CA-G.R. CR No. 08634.

[3] People vs. Francisco Centeno, G.R. No. L-48744, 30 October 1981, 108 SCRA 710

[4] pp. 38-40, Rollo of CA-G.R. CR. No. 08634

[5] p. 41, *ibid*.

[6] People vs. De Mesa, G.R. No. 87216, July 28, 1990, 188 SCRA 48

[7] p. 41, Rollo, *supra*

[8] People vs. Yurong, 133 SCRA 26; People vs. Oga-Oga, 133 SCRA 530; People vs. Abucay, 133 SCRA 732; People vs. Clores, 184 SCRA 638

[9] p. 41, Rollo, *supra*

[10] *ibid*.

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