

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. HENRY SALVERON, ACCUSED-APPELLANT.

G.R. No. 102079. November 22, 1993

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-102079/>

CRUZ, J.:

To better understand the antecedents of this case, we go back to May 22, 1981, when Gloria de Felipe was allegedly robbed and raped by Raul Salveron, Jesus Dalida, Mauricio Dumangas and several other unidentified persons.

During their trial in 1982, Raul Salveron was shot to death inside a bus by a passenger who escaped and has not been arrested to date. A few weeks later, Jesus Dalida was killed in his house under mysterious circumstances that have yet to be unraveled. Mauricio Dumangas was luckier: he too was attacked with apparent intent to kill but survived to accuse his attackers.

They were, according to him, Rosibal de Felipe, the husband of Gloria de Felipe, Marianito Billones, Jr., and Jessie Vito, who were all eventually charged with frustrated homicide.

It was during the pendency of this case that Rosibal de Felipe was himself gunned down, on March 26, 1986, in Barangay Dolores, Municipality of Balasan, Iloilo. The killing was imputed to the herein appellant, Henry Salveron, the son of the late Raul Salveron, in an information for murder filed against him and Federico Sadava.[1] This is the case now before the Court.

At the trial, the prosecution presented Victoriano Gregorio as its star witness. He declared that at about 6:00 o'clock in the evening of the said date, he went to see Rosibal at his house but was told by his wife that he was not there. On his way back, Gregorio met Henry Salveron and Federico Sadava at the foot of the bridge in Barangay Dolores and asked them what they were doing there. Salveron said they were waiting for somebody. Gregorio proceeded on his way and, halfway through the bridge, met Rosibal, who was riding on a motorcycle. They talked about some cattle for sale and agreed to meet at the town of Estancia the following day. Gregorio had reached the other end of the bridge when he heard gunshots. He ran for fear of his life but after a while stopped and looked back, in time to see Henry Salveron standing at the bridge with a long firearm. Gregorio then sped back to Rosibal's house, but by another route, to inform Gloria that her husband had been shot.[2]

Rosibal was already dead when Gloria reached him. The autopsy revealed that he had died due to gunshot wounds in the head, body, arm and thigh caused by a high-powered firearm.[3]

Captain Nicanorito Gomez, station commander of the Integrated National Police branch at Balasan, testified that after conducting an investigation of the killing, he and his men went out to look for Salveron and Sadava and were informed that they had gone to Camansi, Anilao, Iloilo, about 100 kilometers away. The team proceeded to this place and there found the two, who willingly went with them to the PC headquarters at Camp Delgado, Iloilo City.[4] There, the suspects were subjected to a paraffin test by Zenaida Sinfuego, a forensic chemist, who said

she found them both positive for gunpowder residue.[5]

The defense pleaded alibi. According to Salveron his uncle Romeo Salveron fetched him on March 21, 1986, so he could work at his farm in the town of Anilao as the latter was no longer able to do so because he was sick of tuberculosis. He started plowing the following morning at 6:00 o'clock and ended at 9:00, after which he and his uncle went hunting with a licensed .22 caliber rifle.[6]

Salveron added that on March 27, 1986, after asking his uncle's permission, he went to fetch Federico Sadava from Cabautan to help him with the farm. They returned to Anilao at half past 1:00 in the afternoon and immediately started plowing the field. Afterwards, they went hunting with the same rifle Salveron and his uncle had used earlier.[7]

It was on March 28, 1986, while they were resting in his uncle's house, that they were picked up by Captain Gomez and his men and taken to Camp Delgado.

After assessing the evidence of the parties, Judge Ricardo P. Galvez of the Regional Trial Court of Iloilo City acquitted Federico Sadava for lack of evidence of conspiracy but found Henry Salveron guilty as charged. In a well-written decision, he sentenced Salveron to suffer the penalty of reclusion perpetua and all accessory penalties, to indemnify the victim's heir in the sum of P50,000.00, and to pay the costs.[8]

The appellant objects to this judgment. He argues in his brief that the trial court erred in assuming that he had a motive in killing Rosibal de Felipe; that he fled to Anilao after the killing; and that the nitrate burns pointed to his guilt.

Salveron misses the point completely. The assumptions he protests are merely corroborative of the principal evidence of the prosecution, which is the testimony of Gregorio.

Gregorio saw Salveron with a rifle seconds after gunshots rang out. Rosibal de Felipe was dead on the ground. There was no other conclusion but that Salveron had killed Rosibal.

The nitrate burns on Salveron's hands only affirmed that conclusion. The claim that he had gone hunting was too pat for the trial judge, who understandably felt that the story had been concocted to explain the nitrate burns. The paraffin test did not violate the appellant's right against self-incrimination as it involved only an examination of a part of his body. As Justice Holmes said in *Holt v. United States*:^[9]

[T]he prohibition of compelling a man in a criminal court to be a witness against himself is a prohibition of the use of physical or moral compulsion to extort communications from him, not an exclusion of his body as evidence when it may be material.

The alibi itself, although corroborated by Romeo Salveron and Elvira Barredo, was not convincing enough in the face of the positive identification by Gregorio of Salveron as the killer. That identification proved that Salveron went to Anilao not before but after the killing of Rosibal. Besides, Salveron would have the court believe that he deliberately left his wife and children, as well as his mother, simply to assist his ailing uncle. The record shows that the uncle did not really need his nephew because he had from six to ten hired laborers who were then helping him.^[10]

The assumed motive of Salveron to avenge the killing of his father merely strengthened the finding of the trial judge that the appellant was guilty of killing Rosibal. We are not persuaded by the argument of the defense that Salveron would have reacted earlier to his father's murder if his purpose was revenge. Vengeance may take its time aborning; four years may not be long enough to appease the vengeful heart. In any event, we have repeatedly held that proof of motive is not essential where the culprit has been positively identified, as in the case at bar.^[11]

The fact that Gregorio was not in the list of witnesses that was attached to the information was satisfactorily explained by the prosecution. The record shows that the criminal complaint filed with the municipal court on March 29, 1986 did not include Gregorio among the witnesses because his sworn statement was taken only on April 1, 1986, and it was this list that was merely copied when the information was prepared by the provincial prosecutor. At any rate, the omission did not disqualify Gregorio from testifying later because, as we said in *People v. Pacabes*:^[12]

We have held in a long line of decisions that the prosecution is allowed to call witnesses other than those named in the complaint and information. While the accused in a criminal prosecution is entitled to know the nature and cause of the accusation against him, it does not mean that he is entitled to know in advance the names of all the witnesses for the prosecution. The success of the prosecution might be endangered if such right be granted to an accused for the known witnesses might be subjected to pressure or coerced not to testify. The time for the accused to know all the witnesses against him is when they take the witness stand.

The trial court convicted Salveron of murder but did not explain how it was qualified by evident premeditation or treachery as alleged in the information. The allegation was simply accepted without proof. This Court itself has gone over the records and finds that neither of these circumstances attended the commission of the crime.

The prosecution has not established the essential elements of evident premeditation, to wit: a) the time when the offender determined to commit the crime; b) an overt act showing that the culprit had clung to his determination to commit the crime; and c) a sufficient lapse of time between the determination and the execution of the crime as to allow him to reflect upon the consequences of his act.^[13] In fact, no evidence whatsoever of any of these elements was presented by the People.

Like evident premeditation, treachery cannot be merely presumed, and certainly not from the environmental facts of the particular case before us. While it may be argued that Salveron ambushed Rosibal on his way home, there is also absolutely no positive evidence of this conjecture. On the other hand, it may also be supposed that, because he was riding on his motorcycle, Rosibal could have used the vehicle to avert the attack upon him or even to ram his attacker or at least deflect his fire. We resolve the doubt in favor of the accused. We hold that there was no treachery because it has not been shown that Salveron employed means, methods or forms calculated to insure the execution of the killing without risk to himself arising from the defense the victim might have made.^[14]

In the absence of either of the alleged qualifying circumstances, we must find that the crime committed by Salveron was merely homicide and not murder. Homicide is punishable with reclusion temporal;^[15] in this case in its medium period, there being no aggravating or mitigating circumstance. Under the Indeterminate Sentence Law, the penalty is reduced to an indeterminate penalty ranging from prision mayor as minimum and reclusion temporal in its medium period as maximum.

We hope that the bloody trail of vendetta that began with the alleged robbery and rape of Gloria de Felipe will end with the killing of her husband, Rosibal de Felipe in the case we here decide. Whatever retribution is warranted upon the guilty in this tangled web of vengeance upon vengeance must be decreed, not by those who feel they have been wronged, but by the law itself through the processes of the courts.

WHEREFORE, the appealed decision is MODIFIED and the appellant is hereby declared guilty not of murder but of homicide, for which he is sentenced to the indeterminate penalty of 10 years of prision mayor, as minimum, to 17 years and 4 months of reclusion temporal, as maximum. He shall also indemnify the heirs of Rosibal de Felipe in the sum of P50,000.00 and pay the costs.

SO ORDERED.

Davide, Jr., and Quiason, JJ., concur.
Bellosillo, J., on leave.

[1] Rollo, p. 8.

[2] TSN, January 6, 1987, pp. 4-12.

[3] TSN, September 10, 1987, p. 5; July 29, 1986, pp. 10-18; Exhibits "A," "B," and "C."

[4] TSN, April 19, 1988, pp. 4-9.

[5] TSN, June 9, 1987, pp. 5-11; Exhibit "I."

[6] TSN, December 12, 1989, pp. 4-6.

[7] Ibid., pp. 10-13.

[8] Rollo, p. 21.

[9] 218 U.S. 245.

[10] TSN, January 23, 1990, pp. 21-23.

[11] *People v. Cadag*, 208 SCRA 781; *People v. Danico*, 208 SCRA 472; *People v. Gabatin*, 203 SCRA 225; *People v. Ballinas*, 202 SCRA 516; *People v. Gadiana*, 195 SCRA 211.

[12] 137 SCRA 158.

[13] *People v. Pletado*, 210 SCRA 634; *People v. Nabayra*, 203 SCRA 75; *People v. Clamor*, 198 SCRA 642.

[14] *People v. Castor*, 216 SCRA 410; *People v. Devaras*, 205 SCRA 676; *People v. Barba*, 203 SCRA 436; *People v. Tiozon*, 198 SCRA 368; *People v. Lubreo*, 200 SCRA 11.

[15] Article 249, Revised Penal Code.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.