PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN SUELTO Y CORDETA, ACCUSED-APPELLANT.

G.R. No. 103515. October 07, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Appellant, Edwin Suelto y Cordeta, seeks reversal of the Decision[1] dated September 20, 1991, in Criminal Case No. TCS 1112, of the Regional Trial Court of Toledo City, Branch 29. The court found him guilty beyond reasonable doubt of the crime of parricide for the death of his wife, Juanita Suelto.

The Information[2] against appellant dated August 15, 1989, reads as follows:

> "That at around 1:00 o'clock in the morning of August 6, 1989, at Barangay Don Andres Soriano, Toledo City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with a firearm and with intent to kill did then and there willfully, unlawfully and feloniously shoot Juanita Suelto, to whom he has been legally married, thereby hitting and wounding her at her head at the left occipital region resulting in her death secondary thereto.
>
> CONTRARY TO LAW."

During arraignment the appellant pleaded not guilty. After trial, the court a quo rendered the assailed decision, disposing as follows:

> "WHEREFORE, in view of the foregoing, finding the accused GUILTY beyond reasonable doubt of Parricide under Art. 246 of the Revised Penal Code it is hereby the sentence of this Court that accused suffers the penalty of Reclusion Perpetua and to Indemnify the heirs of the victim the amount of FIFTY THOUSAND PESOS (P50,000.00) and to pay the cost. However, the accused is given full credit of his preventive imprisonment provided that he complied with the rules and regulation of a convicted prisoner.
>
> SO ORDERED."[3]

This appeal is before the Court in view of the penalty imposed.

Long after briefs were filed by the parties, appellant wrote the Court requesting that the appeal be withdrawn and the penalty of reclusion perpetua be reduced. However, the Solicitor General, when asked for comment, opposed the withdrawal. Considering that the authority of the Court to review the penalty here imposed could not be waived by appellant (People v. Midtomod, 283 SCRA 395), we agree with the Solicitor General that the withdrawal of the appeal, at this late stage, ought to be denied.

Appellant's main defense is denial of the charge of parricide, contending that the death of his wife was due to accidental shooting when he grappled with the gun to prevent her from committing suicide. Before this Court he seeks the reversal of the trial court's decision on the following grounds:

I

THE LOWER COURT ERRED IN OVER-LOOKING AND IGNORING CERTAIN FACTS OF SUBSTANCE AND VALUE WHICH, IF CONSIDERED,WOULD AFFECT THE OUTCOME OF THE CASE.

II

THE LOWER COURT ERRED IN TOTALLY DISCREDITING THE EXEMPTING CIRCUMSTANCE OF ACCIDENTAL FIRING, INTERPOSED BY APPELLANT.

III

THE LOWER COURT ERRED IN NOT ACQUITTING APPELLANT EVEN UPON THE GROUND OF REASONABLE GROUND (SIC).

Considering these assigned errors together, the principal issue now before us is whether the trial court erred in convicting appellant of the crime of parricide and sentencing him to reclusion perpetua.

In his brief, appellant contends that the prosecution failed to present any eyewitness to the event such that there was no certainty as to who was holding the gun at the time it exploded; that there was nothing in the entire record stating that the prosecution objected to and contradicted the testimony of the appellant that it was the victim who was holding the gun at the time it fired; that the pictures of the re-enactment of the incident confirmed the details in the narration of the appellant that the victim was on the left side of the accused as he tried to grapple with the left hand of the accused; and that even the mother of the victim testified that the victim was in a depressed mood that day and had reason to attempt killing herself.

Additionally, appellant points out that even the medico legal officer and the NBI expert admitted the possibility that the gun fired during the struggle for the gun; that it was possible that it was the finger of the victim which pulled the trigger; that the gun fired within a short distance and that the fatal wound was self-inflicted, and accidental.

Further, appellant argues that the conviction was based on circumstantial evidence; and that the trial court should not have given credence to the contradictory and biased narration of prosecution witnesses. They contradicted each other, he says, on who was asked to fetch the ambulance. Only witness Juanita Carcido mentioned the washing of appellant’s hands, and only one of them heard the word “accident” when appellant called for assistance to fetch an ambulance, he points out. More significantly, he insists the prosecution failed to show who was actually holding the gun when it fired. Without this showing, he claims, then the prosecution failed to prove the guilt of the appellant beyond reasonable doubt.

For the state, the Solicitor General maintains that the proposition of appellant, that the trial court erred in relying on the testimonies of biased witnesses who were not present during the shooting over the testimony of the accused-appellant who was the only witness, is absurd. If a witness present at the time of the shooting was required, then conviction of accused would be impossible. The alleged inconsistencies in insignificant details of witnesses Emiliana Barluado and Juanita Carcido’s narrations, says the Solicitor General, only signal that their declarations at the trial were unrehearsed and spontaneous. He explains that most likely, as in previous occasions, appellant was threatening his wife, but lost his control and pulled the trigger of the gun. Furthermore, the Solicitor General notes the allegation that the wife had suicidal tendencies had not been established. Appellant himself admitted that the victim loved their daughter very much that it seemed highly improbable that the victim would take her own life. On the matter of inconclusiveness of nitrate burns as proof , the Solicitor General avers that appellant had not fully explained why both of his hands had nitrates.

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The Solicitor General notes appellant's defense of accidental shooting is weak. He concludes that the prosecution has sufficiently established appellant's guilt beyond reasonable doubt.

As gleaned from testimonies on record, the pertinent facts are as follows:

On August 5, 1989, accused-appellant arrived home from his work at Atlas Consolidated Mining Corporation, DAS, Toledo City. It was the birthday of his wife, Juanita Suelto who was feeling low that day since there was no money for a celebration. The spouses were later overheard by the neighbors arguing. Then past 12:00 midnight, a gunshot rang from the spouses' bedroom.

According to prosecution witness Emiliana Barluado, who lived ten (10) meters away from the Sueltos, at around 1:00 a.m. of August 6, 1989, appellant knocked at her door, shouting for her to fetch an ambulance because "Juaning (sic) meet an accident".[4] She hurriedly ran out of the house and with her neighbor, Juanita Carcido, rushed for an ambulance, but none was available. When they returned to the house of the Sueltos, the victim had already been brought to the hospital. Barluado also testified that on previous occasions, the victim had confided to her that appellant and the victim often had quarrels, and that at times during these quarrels, the appellant would poke a gun at her and threaten to shoot her.[5]

Another witness Juanita Carcido[6] , who lived on the ground floor just below the quarters of the Sueltos, corroborated the story of Barluado. She narrated that she heard the appellant shouting at her neighbor, Barluado, to fetch an ambulance and the appellant saying, " I shot Juanita."[7] Carcido testified that at one point during the commotion, she observed the appellant washing his bloodied hands.[8]

NBI forensics expert, Cesar Cagalawan, testified that when he examined both hands of the appellant they proved positive for nitrate. However, witness Cagalawan did not discount the possibility that another person's hands,, trying to take away the gun from the hand of the victim, could have fired the gun and thus be positive for nitrate burns. Below is his testimony on this point:

> Q: You were positive in your findings both left and right hands of the presence of nitrate or powder burns?
>
> A: Both left and right hands gave positive for nitrate.
>
> Q: You cannot tell to this Honorable Court whether what hand was used by the accused in allegedly firing the firearm?
>
> A: It is possible left hand or right or both hands were used.
>
> Q: Mr. Cagalawan, what is the radius within which the body of the person positive of nitrate when the firearm was fired?
>
> A: We cannot really tell the exact distance . It is possible it is positive of the presence of nitrate his hands were near the firearm during the firing .
>
> Q: Not necessarily this hand fired the firearm just the same?
>
> A: Still positive for nitrate.
>
> Q: At the distance of one foot, could it be possible that the same result even the subject did not hand the firearm.
>
> A: It is possible.
>
> Q: This could you opine with certainty as an expert if a person who tries to grab the firearm which firearm fired at the distance of one foot from the firearm could it be possible the same result?

A: Possible.

COURT:

Q: Could it be possible both hands fired the firearm?

A: Both hands.

ATTY. ALO:

Q: A person who grabs or who grapple the possession of the firearm and the firearm fires could it be possible the same result as shown in your report?

A: It is possible.[9]

Dr. Jesus Cerna, medico-legal officer, in his post mortem, reported that from the trajectory of the bullet the direction of the gunshot was forward upward, which indicated that the assailant was standing on the same level and holding the weapon on a lower position behind the victim. He testified that he found no "tattooing" around the area of the wound entrance nor burning of hair. He explained that the absence of "tattooing" and burning of the hair meant that the barrel of the gun was not less than 24 inches away from the head of the victim. During cross examination, Dr. Cerna did not discount the possibility that the same gunshot wound in the victim may be made if the victim herself held the gun and someone tried to grapple the gun away from her head before it fired. He testified as follows:

COURT

Q: Considering that you found in your examination the gunshot at the back of the head what could have been the probable position of the victim at the time she was shot, she was facing?

A: As I said, Your Honor, the gun was fired from behind. So, the assailant was behind because the entrance of the wound was at the back of the head.

Q: Were there powder burns?

A: When I examined the skin of the wound of entrance and when I examined the head for possible presence of burning of the hair I was not able to find powder burns.

Fiscal Cavada

Q; Which could be a sign of what Doctor?

A: Considering that it is a gunshot wound, if the distance of the nozzle of the gun from the skin of the victim or hair of the victim is within 2 to 3 inches in case of a short arm or 5 to 6 inches in case of a long arm, there will be burning of the hair because the flame which came out of the barrel of the gun would traverse from 2 to 3 inches in case of short arms and 5 to 6 inches in case of long arms, and considering also that there is no sign of powder burns of the skin and based on the forensic method of medicine tattoo can be found from the nozzle if the gun is within 24 inches from the skin of the victim and since there is no sign of tattooing so I can safely conclude that the distance from the barrel of the gun to the victim is beyond 24 inches. (Emphasis ours.)

x x x

Q: Doctor, did you really exert efforts to find out whether there were powder burns on the body of the victim particularly burns on the body of the victim particularly on the vicinity of the wound?

A: Yes, Sir, when I particularly examine a victim of violent death like shooting, I always make it a point that I will look for the presence of tattooing on the wound of entrance and if the wound of entrance is found on the

head which is covered by hair, I will always see the hair so that the scalp of the skin of the head would be exposed if there will be tattooing that could be seen.

x x x

Q: Now, Doctor, could you point to us just exactly where you found the wound of the victim with your own head using as a reference?

A: Now, that gunshot wound was exactly 11.0 centimeters from the opening of the left ear or head behind this one and 2.0 centimeters below the left external auditory meatus which is located here in this portion.

Q: Now, will you please, now let us come to a hypothetical problem. The situation is where the victim was holding a revolver or the firearm on her left hand and originally the victim was pointing the gun slowly upward on her left temple and another person grabbed the firearm and pushed it backward and the victim would insist to shoot herself and that causes the firearm fired. Now, could this kind of wound be produced?

A: Well, with that position that could be possible.[10]

DIRECT EXAMINATION CONDUCTED BY FISCAL CAVADA

FISCAL CAVADA:

Q: As shown in Exh. G, the first photo and Exh. G-1 the deceased as alleged by the accused to be in this position putting a revolver pointed to her temple with her left hand and the accused using both hands trying to wrest position of the firearm. Exh.G-3, still the accused holding the firearm and the wife holding the firearm; Exh. G-4, the firearm or the tip of the firearm is pointed to the back of the head of the wife, and then we note doctor the direction of the firearm in Exh. G-4 and G-5, the barrel of the firearm is pointed toward the side and in contact with the head of the wife, please note the direction of the tip of the firearm it was alleged by the accused that this position in Exh. G-5 that the firearm exploded or fired at this Exh. G-5. Please examine the pictures and tell the Court if with this position of the gun when it allegedly exploded and as depicted in Exh. G-5 your findings in the Necropsy Report would be consistent ?

A: First of all, as to the location of the gunshot wound entrance as reflected in my Necropsy Report and as shown in the picture in Exh. G-5 the location which is left occipital is consistent with the location of the wound entrance which is described in my Necropsy Report but as to the trajectory of the bullet is concerned in my autopsy report the trajectory was going forward and then upward, now in the position of the barrel as shown in Exh. G-5 which is going downward this would be inconsistent with the trajectory which is indicated in my autopsy report.

Q: How about the direction sideways?

A: In my autopsy report the trajectory was from the face it was going forward upward then it is going towards the right medially and in Exh. G-5 the direction of the barrel is pointed from the left is consistent. What is inconsistent is the trajectory because as shown in picture with the barrel going downward the trajectory would have been downward while in my autopsy report it was going upward.

Q: You will observe that the tip of the barrel of the gun in Exh. G-5 is touching the head of the victim?

A: Yes sir.

Q: With this distance between the gun and the head in connection with the head what would have been the nature of the entrance wound?

A: Considering that it is a contact fire where the barrel of the gun is touching the skin or in case of near contact fire wherein the barrel is nearly touching the skin, the diameter of the entrance gunshot wound would have been bigger than the actual caliber of the firearm and as a matter of fact there will be an extensive destruction

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of the wound entrance and also the underlying tissues brought about by the effect of the pressure of the heat and expanded gases which is one of the effects of the gun explosion.

x x x

COURT:

Q: And in this case is there present characteristic from your finding the entrance wound to show that it was contact fire?

A: In case of contact fire gunshot wound located on the hairy portion of the head example like the head there will be burning of the hairs due to the effect of the flame of fire that will come out from the barrel of the gun when the gun is exploded, at a distance of 24 inches. No entrance location of the skin.

x x x

ATTY. ALO:

Q: Dr., when you answer in this picture regarding Exh. G-5 you only basing on what superficially show on the picture the lady holding the gun by her left hand and pointing the gun on the left side of the neck of the head?

A: Yes sir.

Q: You also noted that the hand and the left hand of the lady holding the gun is held by the man who represents the accused himself, is that correct?

A: What is clear here, is that the left hand of the girl who is holding the firearm who was also being held by the right hand of the accused.

Q: The right hand of the accused on Exh. G-5 is holding the left hand of the lady holding the gun?

A: Yes sir.

Q: In the matter of presence of nitrates is it not a fact that when the hand holding the gun is covered by the hand holding the gun could never be positive of nitrates because the nitrates concentrated on the cover of the hand?

A: It is a fact that if there are factors that is for example of clothing which is worn by the person who fired the gun naturally the gunpowder will not even adhere on the skin.

Q: You will agree with me that your answer relating to Exh. G-5 that the gun fired when the lady was pointing the gun on the side just as the accused wanted to wrest back to hold the firearm?

A: Yes sir.

Q: That is why as to question you will made to testify on the position taken as shown on the pictures. That this was the time that the gun fired. According to the accused there is moving of the head and in other words you only assume the second time that this position was the very position when the gun fired, and according to the witness there was a struggle?

A: As to the actual position of the hand of the victim and the position of the gun when the gun actually fired and considering that there was a struggle between accused and the victim considering that normally the strength of the accused being a man is stronger and the woman having a weaker sex than a man would the direction of the trajectory be consistent of the testimony of the accused?

Q: It is a common knowledge that men have superior strength than woman, woman having weaker sex if actually the man applied force on the left hand of the victim so this could be again change the direction of the

gun the victim could not be hit or the accused could have wrested the gun away from the victim. The position of the hand of the accused holding the firearm toward the victim because of the force applied the gun could not have pointed to the victim anymore.

Q: You will agree with me if the middle finger is holding the gun with his forefinger on the trigger and his hand is pulled away it would also cause a motion to respond in the same way that the trigger would be pressed?

A: There is a possibility.[11]

Appellant, in his defense, claimed the shooting of his wife was accidental. According to him, the gun fired when his wife and he were grappling for the gun as he tried to prevent the victim from shooting herself. He said his wife, with the gun on her left hand, pointed the gun at her left temple. First, he held her hand with both of his hands; then, he held her elbow, with the tip of the barrel of the gun still touching the back of her neck. As he pulled her hand away, the gun fired. He testified as follows:

Q: When you heard your wife murmuring that she will commit suicide, what did you do, if any ?

A: I saw that on her left hand she was holding a revolver pointing to her left head or left temple.

Q: Now, what about her right hand, did you come to notice what she was holding?

A: She was holding in her right hand the holster of the revolver.

Q: Alright, Now, when you saw that your wife was holding a revolver with her left hand on the verge of committing suicide with her right hand holding the holster, what did you do as a husband?

A: When I saw her holding the revolver pointed at her left temple, I said , Don't Day. (witness demonstrating to the Court that he was holding the left arm of his wife.

x x x

COURT:

The accused was sitting about one foot distance to the Interpreter who is representing the wife who is holding the revolver, placed the revolver on his left temple. The accused is holding the left hand of the Interpreter who is supposed to be his wife with both hands of the accused. The right hand of the accused is holding the upper wrist and the left hand is holding the elbow with the firearm pointing to the right at the back side of the neck of the Interpreter who is representing the wife directed to the side of the neck. The fire arm directed towards the left and the tip of the barrel is touching on the outer side touching the back portion back portion (sic) resting. Proceed.

Atty. Alo:

Q: Now, that was your relative position to your wife when you tried to grab the firearm in that position? Now, when you tried to pull away the firearm from your wife what did your wife do?

A: She pulled her hand and resisted to pull back the firearm towards her head and the firearm fired.

Interpreter:

At that instant the barrel of the gun is pointed to the neck below the left ear around 2 inches.

Atty. Alo:

Q: Now, that was the motion of the left hand of your wife?

A: Yes.

> Q: Now, what was the movement of the head when she was resisting in order that the gun went at the back of the head?
>
> A; She turned her head towards her right and still pointing the gun to her head.
>
> x x x
>
> Q: Now, at the time of the incident when you were lying on your bed, where was your child?
>
> A: At my right side sleeping.
>
> Q: Now, when or at the time of the incident where was your child?
>
> A: On the bed at my right side.
>
> Q: Did you come to know what happened to your daughter when the gun bursts or when the gunburst (sic) was heard?
>
> A: She was still sleeping.[12]

Although during the direct examination there was a re-enactment of incident, the Court upon request of the prosecution the court also allowed another re-enactment to be photographed, which on record was objected to by the defense. The photographs of the second re-enactment showed the tip of the gun's barrel in contact with the victim's head.[13]

During the re-direct examination of the appellant, the defense claimed that due to the struggle of the spouses over the gun, the victim's head moved away from the gun and simultaneously, since the appellant was stronger, he was able to draw the gun away from the victim's head. These simultaneous movements of the victim's head and the gun could explain why the wound was not a contact wound. Thus, the defense argued, appellant's claim was consistent with the autopsy report of Dr. Cerna on the absence of "tattooing" and burning of the hair of the victim.

As testified to by appellant on re-direct:

> Atty. Alo:
>
> Now, you said that you tried to pull the left arm of your wife away from you and she resisted by pulling back the firearm and pointed the gun at her head. Now, could you tell the Court at what position of your pulling away the left arm of your wife and the pulling back of the firearm by your wife did the gun burst?
>
> A: When she tried to pull back the firearm towards herself the gun fired.
>
> Q: Now, what about the motion of her head, how did your wife remove her head in consonance of the move of her head when she resisted your holding of the gun?
>
> Fiscal Cavada:
>
> The witness demonstrated by holding the gun with his left hand directed towards the left side of his head with the hand and the head was turning towards the right saying that that was the time that his wife tried to resist and pulled the gun and the hand was also following the head.[14]

During rebuttal, the prosecution presented the mother of the victim, Felisa Pardillo, to establish that the victim was right-handed, and that the appellant's allegation that she was holding the fatal weapon on her left hand was unnatural.[15]

But on sur-rebuttal, appellant said his wife was ambidextrous.[16]

The trial court, however, was unconvinced by appellant's version of events. No witness corroborated his story.

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Note that he could not dispute the fact that his wife was shoot to death. Only he was with her at that fatal moment in their bedroom. His defense proved less than credible on how and why she died. Considering the testimonies on record, we are inclined to uphold the findings and conclusions of the trial court.

To begin with, well-settled is the doctrine that the question of credibility of witnesses is best left to the assessment of the trial court. As a general rule on appeal, its evaluation of the veracity and the credibility of the witnesses' testimony is accorded great respect and finality in the absence of any indication that it overlooked certain facts or circumstances of weight and influence, which if reconsidered, would alter the result of the case.[17] We find nothing in the record to justify why we should depart from this rule as far as the testimonies of Barluado and Carcido are concerned. The failure of one witness to mention an utterance or a word which another recalls in a separate testimony is not sufficient to affect the credibility of the two witnesses. As a matter of common observation and knowledge, the reaction or behavior of persons when confronted with a shocking incident varies.[18] Testimonial discrepancies are caused by the natural fickleness of memory which tend to strengthen – rather than weaken – credibility as they erase suspicion of a rehearsed testimony.[19] A thorough evaluation of the stenographic notes of the trial reveal that the witnesses testified in a candid, spontaneous and straightforward manner. This Court as well as the trial court cannot and do not expect absolute uniformity in every detail, because witnesses react differently to what they see and hear depending upon their situation and state of mind.[20]

The following circumstances, to reiterate, surfaced during the trial. Prosecution witness Juanita Carcedo testified that at around the time of the incident, she heard appellant and the victim having a heated argument upstairs. Suddenly, "there was a gunburst and an object fell down."[21] Previous to the incident, Carcedo testified that there was a time when she saw appellant pointing a gun at the victim.[22] Further, prosecution witness Emiliana Barluado testified that the day before the incident, the victim told her that she felt bitterness in her life because everytime she would quarrel with her husband, he would always point a gun at her.[23] Appellant claimed his wife was ambidextrous and that fateful evening, held the gun with her left hand, so this would explain the wound on the left region of the victim's head. Yet, the victim's mother without hesitation testified that her daughter was right-handed. Further, appellant claimed he had never seen the gun before. But witnesses had testified that on previous instances the victim had claimed she was threatened with a gun by the appellant.

Appellant wants to convince this Court that the testimony of the forensics expert, who testified on the absence of "tattooing" and hair burning and the trajectory of the bullet and the NBI agent who testified on the presence of nitrate burns on the both hands of the accused, should not be given much credence. But appellant insists his account should have been taken as true, there being no other witnesses present. In numerous cases, however, we have held that denials of the accused, unless supported by clear and convincing evidence, are negative self-serving evidence which deserves no weight in law and cannot be given greater evidentiary weight than the testimony of credible and disinterested witnesses who testify on affirmative matters.[24] This rule holds true in this case.

Expert witness Dr. Cerna reported that the trajectory of the bullet was forward and upward. This was inconsistent with appellant's narration regarding the position of the gun when it fired. Dr. Cerna added that if the gun exploded as appellant had demonstrated, then the wound should have shown a bullet trajectory going forward and downward.[25] Noteworthy, there is another major inconsistency in appellant's testimony. In the autopsy report, the wound showed no "tattooing" nor burning of hair. According to the doctor, this meant that the wound was not a contact wound and that the gun was fired from a distance not less than 24 inches away from the wound. This is contrary to appellant's testimony. We are thus constrained to find that the physical evidence negates the testimony of the appellant and his demonstration in court that at the time the gun fired the tip of the gun was in contact with the victim's head.[26]

To recapitulate, we have found no reason to disagree with the trial court that appellant's version of the incident is

far from credible; and thus his arguments do not suffice to persuade us in this appeal to reverse his conviction. Although the judgment of the trial court is based on circumstantial evidence, we find the conviction in order. The circumstances proved in this case constitute a complete series of events which lead to the ineluctable conclusion pointing to the accused and no other, as the person responsible for Juanita Suelto's death. As held in earlier decisions, direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt.[27] In our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt.[28]

While there is no direct evidence that appellant killed his wife, there is more than sufficient circumstantial evidence[29] that appellant committed the crime charged. Noteworthy are the following pertinent circumstances:

First, appellant was the only person with his wife when she was shot in their room;[30] Second, appellant admitted that he had quarrels with his wife everytime he'd pass by Sing-A-Long, a place where prostitutes can be found. On the day of the incident, appellant came home late, and the victim was angry at him because she believed that he came from the Sing-A-Long.[31] Third, contrary to the allegation of the husband that the victim was ambidextrous,[32] the mother of the victim categorically testified that she was right-handed,[33] and the trial court gave due credence to the testimony of the mother; Fourth, while appellant denied owning the revolver, and claimed that he never saw it before, he could offer no explanation how it came into the possession of the victim.[34] Fifth, appellant was seen washing his bloody hands right after the shooting incident,[35] which in the course of normal human conduct, cannot possibly be the actuations of a sincerely concerned husband about the accidental shooting of his wife. Sixth, appellant's testimony and re-enactment as to how the shooting occurred was belied by the physical evidence (the trajectory of the bullet) as testified to by the medico-legal officer.[36]

We have also taken note of the paraffin test conducted on the appellant. But the result thereof has little probative value considering that a positive finding of nitrates in his hands, following the versions of both prosecution and defense, would only show appellant's hands were very near the gun and would test positive for nitrates.[37]

Moreover, considering that his defense was built on the theory that the shooting was purportedly accidental, appellant has the inescapable burden of proving the elements of the exempting circumstance of accident.[38] This burden he failed to discharge to the satisfaction of the trial court and us. From our review of this case, we entertain no reasonable doubt as to his culpability. Appellant is guilty of the offense charged.

ACCORDINGLY, the decision of the Regional Trial Court of Toledo City, Branch 29, finding appellant Edwin Suelto y Cordeta guilty of parricide beyond reasonable doubt and sentencing him to reclusion perpetua is hereby AFFIRMED.

SO ORDERED.

Mendoza, and Buena, JJ., concur.

Bellosillo, (Chairman), J., on official leave.

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[1] Rollo, p. 30.

[2] Records, p. 1.

[3] Supra, note 1, p. 40.

[4] TSN, July 17, 1990, p. 5.

[5] Id. at pp. 3-7.

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[6] Spelled Carcedo in other portions of the Rollo and Records.

[7] Supra, note 4 , p. 10.

[8] Id . at 9.

[9] TSN, October 5, 1990, p. 5-6.

[10] TSN, October 11, 1990, pp. 5 and 10.

[11] TSN, May 22, 1991, pp. 2-11.

[12] TSN. January 30, 1991, pp. 5-8.

[13] TSN, April 4, 1991, pp. 2-5.

[14] Ibid.

[15] TSN, August 9, 1991, pp. 3-5.

[16] TSN, August 9, 1991, pp. 9-10.

[17] People vs. Realin, et.al. G.R. No. 126051 (January 21, 1999) . Citing People v. Padilla, 242 SCRA 629, 639-640 (1995) ; People v. Malunes, 247 SCRA 317, 324 (1995).

[18] People vs. Pano, 257 SCRA 274.

[19] People vs. Francisco, 258 SCRA 558.

[20] People vs. de Castro, 252 SCRA 341.

[21] TSN, July 17, 1990, pp. 8-9.

[22] TSN, July 17, 1990, p. 11.

[23] TSN, July 17, 1990, p. 4.

[24] People vs. Gondora, 265 SCRA 547; People vs. Salison, Jr., 253 SCRA 758; People vs. Paragua, 257 SCRA 118; De Guzman vs. Courts of Appeals, 260 SCRA 389.

[25] TSN, May 22, 1991, pp. 3-4.

[26] Id. at 6-7.

[27] People vs. Damao, 253 SCRA 146 (1996).

[28] People vs. Parel, 261 SCRA 720.

[29] Section 4, Rule 133, Rules of Court.

[30] TSN, January 31, 1991, p. 5.

[31] Id. at 4, 9.

[32] TSN, March 7, 1991, pp. 5-6.

[33] TSN, August 9, 1991, pp. 2-4.

[34] TSN, January 30, 1991, p. 8.

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[35] TSN, July 17, 1990, pp. 12-13.

[36] TSN, May 22, 1991, p. 5.

[37] Cf. People v. Melchor, G.R. No. 124301, May 18, 1999.

[38] Article 12, No. 4, Revised Penal Code.

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