

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAURICIO TORRES, ACCUSED-APPELLANT.

G.R. No. 105389. April 28, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

In the Regional Trial Court, First Judicial Region, Branch 51, Tayug, Pangasinan, accused-appellant Mauricio Torres was charged in Criminal Case No. T-1105 with the crime of Murder with the Use of Unlicensed Firearm, in an information dated 10 January 1991, committed as follows:

"That on or about the 10th day of Aug. 1990, in the evening at Bgy. Cadiz, Municipality of Umingan, Province of Pangasinan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, including John Doe whose identity have (sic) not yet been established, conspiring, confederating and helping one another, with intent to kill and with treachery and evident premeditation, armed with an unlicensed firearm (Carbine), did then and there wilfully, unlawfully and feloniously shoot one LORENZO ANTONIO, inflicting the latter an injury, to wit:

- Gunshot wound, through and through, point of entry, left scapular region, fracturing the left scapula, perforating the left lobe of the lungs, going upward to the neck, point of exit, left side of the neck,

which caused the death of LORENZO ANTONIO as a consequence, to the damage and prejudice of the heirs of said LORENZO ANTONIO.

CONTRARY to Article 248 of the Revised Penal Code in relation to Presidential Decree No. 1866."[1]

On 27 June 1991, accused-appellant was arraigned and pleaded not guilty. After trial, the trial court rendered a decision* dated 9 March 1992, the dispositive part of which reads:

"WHEREFORE, PREMISES CONSIDERED, the Court finds the accused MAURICIO TORRES guilty beyond reasonable doubt of the crime of Murder defined and penalized under Art. 248 of the Revised Penal Code and hereby sentences him to suffer the penalty of reclusion perpetua together with all the accessory penalties provided for by law and to pay the heirs of the deceased the following amounts: a) P50,000.00 as indemnity; b) P11,500.00 for the funeral services; c) P20,000.00 for the expenses incurred for the eight-day wake; d) P900.00 for the tomb and e) to pay the costs.

The bailbond posted by the accused for his provisional liberty is hereby cancelled pursuant to Sec. 3 of Rule 114 of the Revised Rules of Court and his immediate confinement is hereby ordered as per Supreme Court Administrative Circular No. 2-92.

SO ORDERED."[2]

The antecedent facts which gave rise to the incident involved in this case, are as follows:

On 10 August 1990, at around 6:30 in the evening, Lorenzo Antonio and Domingo Salazar were walking on the dike (pilapil) in the field of Dadong Antonio, situated at Barangay Cadiz, Umingan, Pangasinan. They were

intending to go home to their respective families after hiding for two (2) days in Nagkuralan, Cuyapo, Nueva Ecija, a barangay roughly two (2) kilometers away from Barangay Cadiz.[3] The two (Antonio and Salazar) were allegedly, involved in stabbing one Lando Torres on 8 August 1990 in Cadiz. Lando Torres happened to be an uncle of the accused.[4] Heeding their parents' advice, Antonio and Salazar sought refuge with their relatives in Nagkuralan until a messenger from Cadiz in the person of one Ramon Godova went to Nagkuralan to personally inform them that the case had been settled by their respective families so that they could go back to Cadiz. Although they still harbored some doubts as to the veracity of the message, they told the messenger that they would go home in the afternoon of the same day.[5]

While traversing the said dike, Lorenzo Antonio, who was walking ahead of Domingo Salazar, suddenly stopped as he noticed two (2) persons on the right side of the dike lying down on their side facing each other, and who appeared to be lifeless. Lorenzo Antonio immediately recognized one of them and exclaimed to Domingo Salazar that such person was "Melio" referring to the accused Mauricio Torres who happens to be a second cousin of Domingo Salazar, their father being cousins. Domingo Salazar, upon recognizing that one of two (2) persons lying down was indeed Mauricio Torres, immediately told Antonio that these persons might already be dead and that they should run as some people might suspect them of having a hand in their killing if they were to be seen in the vicinity of the crime scene.

Before they could run, Domingo Salazar saw that Mauricio Torres suddenly moved from his previous position holding a gun. When he saw the latter kneel down and point the gun at Lorenzo Antonio,[6] Domingo Salazar immediately jumped back and began to run eastward. Lorenzo Antonio immediately followed suit and ran westward. While they were running, Domingo Salazar heard a shot. Lorenzo Antonio, then about two (2) meters away, told him that he (Lorenzo) was hit. Domingo continued running eastward to Nagkuralan, Cuyapo, Nueva Ecija.[7] He chose to flee back to Nagkuralan as he had recognized the accused who is from Cadiz, Umingan, Pangasinan. Lorenzo Antonio was left behind because he fell on the edge of the fence of the ranch of Dadong Antonio.[8]

Upon reaching Nagkuralan, Cuyapo, Nueva Ecija, Domingo Salazar proceeded to the house of Councilman Simplicio Dominguez and informed him of what had happened. Councilman Dominguez then summoned his fellow councilmen and some barangay tanods and proceeded to the place of the incident. They first went to the field of Dadong Antonio where he (Domingo) and Lorenzo Antonio saw the accused and another person lying down facing each other, and while there, they found and retrieved an empty shell lying around one (1) foot away.[9] From this spot, they proceeded to the place where Lorenzo was last seen by Domingo. After walking about one hundred (100) meters, they found the body of Lorenzo Antonio lying down prostrate facing the ground at the edge of the fence of the ranch.[10]

Councilman Dominguez and his men brought the lifeless body of Lorenzo Antonio to his residence in Cadiz, Umingan, Pangasinan and reported the incident to the barangay officials of Cadiz.

The following day, Lorenzo's body was examined by Dr. Alex Trinidad, the Rural Health Physician of Umingan, Pangasinan in the residence of the former and determined the cause of the victim's death as internal hemorrhage due to gunshot wound.

Dr. Trinidad further testified that the bullet entered the victim's left scapular region exiting on the left side of the neck; the point of entry being much smaller than the point of exit, indicating a strong probability that the victim was shot at a very close range. Corollarily, prescinding from the trajectory of the bullet, he concluded that the position of the gunman was much lower than that of the victim. Moreover, allegedly judging from the irregularity of the wound, he opined that the bullet could only have been fired from a high caliber gun.[11]

Police Corporal Jose Aimerol, a member of the Umingan Police station, was next to testify. According to him, Domingo Salazar came to his office on 13 August 1990 to execute a sworn statement regarding the incident. On the same occasion, Salazar also submitted to him an empty shell similar to that used in a carbine caliber 30 R-5 firearm. On cross-examination, he however admitted that he had no knowledge where Domingo Salazar picked up the aforementioned empty shell, and that no firearm was ever submitted to his office.[12]

Florencio Antonio, the father of the victim, testified on the civil aspect of the case. He claimed he had spent P11,500.00 for his son's funeral service; P20,000.00 for the eight (8) day wake and P900.00 for the cost of the tomb.[13]

Accused-appellant anchors his defense mainly on alibi and doubtful identity as can be gleaned from the following assignment of errors in this appeal, viz:

That the court a quo erred:

1. IN HOLDING THAT THE LONE WITNESS, DOMINGO SALAZAR, CATEGORICALLY POINTED OUT TO THE ACCUSED AS THE PERPETRATOR OF THE CRIME.
2. IN HOLDING THAT MANY PEOPLE ATTENDED THE BIBLE STUDY, YET NOT EVEN ONE WHO IS NOT RELATED TO THE ACCUSED WAS PRESENTED TO PROVE HIS ALIBI.
3. FINALLY, IN HOLDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE CHARGED.

Accused-appellant did not testify in his behalf but presented three (3) witnesses to establish his alibi.

Celestino Fernandez, accused's father-in-law, and a minister of the Church of Christ stationed at Cadiz, Umingan, Pangasinan, testified that on 10 August 1990, from 5:30 in the afternoon to 9:30 in the evening, he presided over a bible study seminar conducted in his residence. The session was attended by more than thirty (30) participants, including the accused who arrived at their house together with his family at about 5:30 of that same afternoon as he was then the person in charge of the lighting and other things needed in the seminar. He maintained that from the time the seminar began up to the time it ended, nobody left the enclosed room where the meeting was held. He had a list of participants[14] which was prepared by his daughter as the people arrived. On cross-examination, he admitted that the list was only prepared on 10 October 1991, a full one (1) year and two (2) months from 10 August 1990 and that he could not remember if he ever gave instructions to his daughter to write the names of the participants on 10 August 1990.[15]

Armando Fernandez, the barangay captain of Cadiz, Umingan, Pangasinan testified that at around 5:30 in the afternoon of 10 August 1990, accused-appellant came to his house to borrow an adjustable wrench, after which he saw the accused proceed towards the adjacent rice mill of his (Armando's) father. Accused-appellant did not return the wrench on the same day and it was only on the following day that he saw him again.[16] On cross-examination, he admitted that accused-appellant is his brother-in-law; and that at about 10:30 p.m. on 10 August 1990, he received a report that a person was killed in the ranch of Dadong Antonio. Immediately he reported the matter to the local police. However, he never went to the crime scene and did not make any attempt to obtain any lead as to the suspect in the case. It was only in the afternoon of 12 August 1990 that he was invited to the house of Sitong Antonio together with two (2) others, and there he personally heard Domingo Salazar reveal in front of his companions, Jose Antonio and Antonio Credo as well as Manuel Santos and Florencio Antonio that it was Mauricio Torres who shot Sitong (Lorenzo) Antonio.[17]

Last to testify was Councilman Dominguez, who told the court a quo that he was the first person to whom Domingo Salazar reported the shooting incident. When he asked Salazar whether he recognized the assailant,

Salazar only answered that "one was tall and the other was short." [18] Curiously, he did not inquire further to clarify Salazar's hazy description of the suspects.

From the two (2) sets of facts, as respectively set forth by the prosecution and the defense, the Court concludes that this appeal is devoid of merit.

First, on the issue of doubtful identity, the defense posits the shallow reasoning that Domingo Salazar, the lone eyewitness to the shooting, did not immediately reveal the identity of the malefactors to Councilman Dominguez. Instead, all he said at that time was that "one was tall and the other was short"; and that the interregnum of two (2) days was long enough for Domingo Salazar to concoct the story that would implicate accused-appellant as the author of the crime. The trial court, which concededly was in the best position to determine the credibility of witnesses, based on their appearance and deportment while on the witness stand, sustained the testimony of Domingo Salazar, the only eyewitness in the shooting of Lorenzo Antonio.

Accused-appellant questions why the eyewitness Domingo Salazar did not immediately divulge accused-appellant's name to Dominguez. Salazar's proffered excuse is not uncommon. It was fear. The Court has consistently taken judicial notice of the natural reticence of most people to get involved in a criminal case. They are usually afraid to reap reprisals from the accused and/or his family and relatives. [19]

Furthermore, it is well-settled that the testimony of a single witness, if positive and credible, is sufficient to obtain a conviction, even in the absence of corroboration. [20] It shall be given full credit in the absence of any ill motive or long-harbored grudge that can be ascribed by the accused to such witness, which induced him to falsely testify against the accused.

In the case at bench, the records reveal that accused-appellant is even related to witness Salazar, they being second degree cousins. This fact reinforces the circumstance that he (Salazar) knew the accused-appellant well, being close relatives and residents of the same barangay.

It would then be preposterous to think that Salazar would implicate a second cousin for no apparent reason at all, except to tell the truth and as his conscience dictates.

We come now to the integrity and credibility of accused-appellant's alibi.

Alibi as a defense has an inverse relation to positive identification. As evidence, it is regarded as being the weakest and unreliable of all defenses especially in the light of clear and precise evidence of positive identification of the accused by the prosecution eyewitness against whom no motive to falsely testify against the accused can be established. It can only prosper by indubitably proving that the accused was somewhere else when the crime was committed, and an unassailable demonstration that he could not have been physically present at the locus of the crime or its immediate vicinity at the time of its commission. In spatial terms - physical impossibility of being in two (2) places at the same time.

The trial court did not reject accused-appellant's alibi solely on the ground that appellant failed to call to the witness stand any disinterested person who could prove that accused-appellant was attending a bible study session at the time of the incident in question. Domingo Salazar positively identified accused-appellant as the person who fired the shot that killed Lorenzo Antonio. Second, no evidence of ill motive on the part of Domingo Salazar to falsely implicate a relative was ever established. Third, the place where appellant purportedly attended the bible study was not too distant, being two (2) kilometers away or thirty (30) minutes by foot from the scene of the crime.

Lastly, as the Solicitor General aptly observed, the witnesses presented by appellant to corroborate his alibi were

far from credible, two (2) of the three (3) witnesses being closely related to him. As the lower court sharply pointed out -

"The discussion on the defenses put up by the accused shows that it has not dent a bit the evidence of the prosecution. Furthermore, the Court finds the witness for the defense unreliable, biased and inconclusive. The witnesses for the accused are: Celestino Fernandez, a minister of the Church of Christ is the father-in-law of the accused. Armando Fernandez, Brgy. Captain of Cadiz, Umingan, Pangasinan is son of Celestino Fernandez and brother-in-law of the accused. Only witness Simplicio Dominguez is not related to the accused although as a councilman himself of a neighboring barangay it could be said that his testimony tends to protect a relative of Brgy. Captain Fernandez.

"With the foregoing, the testimonies of Celestino Fernandez and Armando Fernandez corroborating the accused's defense of alibi is not acceptable to the Court. There are allegedly many people who attended the bible study, yet not even one who is not related to the accused was presented to prove his alibi. The Fernandezes' testimonies are not only biased for it is a natural desire to exculpate the accused from criminal liability, it is also inconclusive. Alibi is at least a weak defense and easy to fabricate especially between parents and children, relative and even those not so related. For alibi to be credible must count with a strong corroboration." [21]

The fact that there were more than thirty (30) persons who attended the bible study in Fernandez' residence on 10 August 1990 and not one (1) of them testified to corroborate accused-appellant's alibi further eroded Celestino Fernandez' credibility as in effect he was the only one presented to substantiate the said defense. The defense instead chose another relative, Armando Fernandez who merely testified that he saw the accused around 5:30 p.m. on 10 August 1990 when he borrowed an adjustable wrench from him, then went to the ricemill and that he next saw him the following morning of 11 August 1990.

If the defense claims that as early as 5:30 p.m. of 10 August 1990, appellant was already at the place of the bible study busy fixing chairs and did not thereafter leave the place, then how could he be at Armando Fernandez' house borrowing an adjustable wrench at the same time?

It is to be noted that accused-appellant was never pre-sented to explain these inconsistent defense submissions.

In *People vs. Solis*, [22] this Court held that the defense of alibi is weak if it is established mainly by the accused himself and his relatives and not by credible persons. The same principle equally obtains in this case.

WHEREFORE, the decision of the Regional Trial Court of Tayug, Pangasinan convicting accused-appellant Mauricio Torres of the crime of Murder is hereby AFFIRMED in toto with costs against the appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Puno, JJ., concur.

[1] Rollo, p. 6.

* Penned by Judge Hugo B. Sansano, Jr.

[2] Rollo, pp. 23-24.

[3] TSN, July 25, 1991, p.14

[4] Ibid, p. 27

[5] Ibid, at p. 25

- [6] Ibid, p. 7
- [7] Ibid, P. 8
- [8] Rollo, p. 17
- [9] TSN, January 3, 1992, p. 7.
- [10] TSN, July 25, 1991, p. 21.
- [11] TSN, August 8, 1991, pp. 8-12
- [12] TSN, August 8, 1991, pp. 16-17
- [13] TSN, September 5, 1991, pp. 3-5
- [14] Exhibit 1, Original Record, p. 131
- [15] TSN, January 21, 1992, pp. 3-10
- [16] TSN, January 30, 1992, p. 4.
- [17] TSN, January 30, 1992, pp. 6-7.
- [18] TSN, January 31, 1992, pp. 4-5.
- [19] People vs. Fuentes, G.R. No. 104667, January 17, 1994.
- [20] People vs. Sampaga, G.R. 91339, 202 SCRA 157 (1991).
- [21] Rollo, pp. 133-134.
- [22] 195 SCRA 465, citing People vs. Berrinquel, 192 SCRA 561

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