

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFONSO R. BAUTISTA @ “POLDO,” ACCUSED-APPELLANT.**

G.R. No. 117685. June 21, 1999

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Before us is an appeal from the Decision of May 26, 1994 of the Regional Trial Court of Dagupan City, Branch 44 in Criminal Case No. D-12278 convicting appellant Alfonso R. Bautista of the crime of murder as follows:

WHEREFORE, the Court finds Alfonso Bautista alias Poldo Bautista guilty beyond reasonable doubt as principal of the crime of Murder under Article 248 of the Revised Penal Code and, pursuant to law, hereby sentences him to suffer the penalty of Reclusion Perpetua. Accused is ordered to indemnify the heirs of the deceased in the amount of P50,000.00.

Accused is ordered to pay Leticia (sic) Bandarlipé the amount of P35,000.00 representing the money spent during the wake of Cipriano Bandarlipé.

SO ORDERED.[1]

Appellant was originally charged with murder along with Samuel Ventura and Alejandro Defuntorum[2] before the Municipal Circuit Trial Court of San Fabian, Pangasinan.[3] Upon reinvestigation by the provincial prosecutor, however, the charge against Ventura and Defuntorum was dismissed for lack of sufficient evidence.[4] In due course, on November 15, 1993, the following information was filed against appellant:

That on or about November 30, 1992 in the evening at barangay Anonang, municipality of San Fabian, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a long firearm with intent to kill, treachery and evident premeditation, did, then and there wilfully and unlawfully and feloniously shoot CIPRIANO BANDARLIPE y SION inflicting upon him a gunshot wound (omental evisceration right upper abdomen) which caused his death, to the damage and prejudice of his heirs.

CONTRARY to Art. 248, Revised Penal Code.[5]

Upon arraignment, appellant entered a plea of not guilty. At the trial of the case, the prosecution adduced the following evidence:

At around 7 o'clock in the evening of November 30, 1992, Leticia Bandarlipé[6] was seated on a sled near a kamias tree by her house in Anonang, San Fabian, Pangasinan to await the arrival of her husband, Cipriano Bandarlipé. An hour and a half later, she heard a gun report and the ensuing shout of her husband that he was shot. Leticia ran to her husband's succor and found him prostrate on the road about fifteen (15) meters away from where she was seated. As she embraced her husband and cried for help, she saw appellant standing at a distance of two (2) meters from Cipriano, pointing a long firearm at the latter. Leticia recognized appellant whom she identified in court as "Leopoldo Bautista," as she had seen him several times before. Moreover, it was a moonlit

night and the place was illuminated by the lights originating from the house of her in-laws and a passing payloader. Leticia asked her husband who shot him and Cipriano replied that appellant did. When Leticia looked up, appellant was no longer there. Thereupon, together with her sister-in-law, Barangay Captain Felipe M. Solis, Jose C. Gagaza, Jr., Barangay Tanod De Leon and others, Leticia rushed Cipriano to the provincial hospital in Binloc, Dagupan City. There, Cipriano expired.[7]

Leticia's neighbor, Rogelio Peralta, was walking on his way home when, by the light of a passing payloader, he saw appellant carrying a long firearm immediately after he had heard gunfire. Rogelio went to the side of the road and, after appellant had vanished, continued on his way home. He later learned that Cipriano was shot and rushed to the hospital.[8]

Dr. Alberto Gonzales, the resident physician who attended to the victim, issued a medico-legal certificate stating that the 37-year-old Cipriano Bandarlipi had alcoholic breath and omental evisceration at the right upper abdomen. Cipriano died of cardio-respiratory arrest secondary to hypovolemic shock due to gunshot wound on the abdomen.[9]

According to Leonardo Tabilen, Chief of the Intelligence Unit of the 152nd PC Company, he had known appellant as a "dreaded killer in San Fabian and San Jacinto, Pangasinan" who was suspected of having killed Federico Dispo, Efren Reyes and the Barangay Captain of Pozorrubio, aside from Cipriano Bandarlipi. Based on information gathered from barangay people, Tabilen conducted a surveillance operation upon appellant. At the invitation of Barangay Captain Solis, who was his partner in keeping peace and order in the community, Tabilen went to the house of Prudencio Feriamil on October 5, 1992 (sic). There, he invited appellant and his brother-in-law, Rufino Reyes, to the headquarters to shed light on the killing of Cipriano Bandarlipi. Appellant willingly went with him and the investigation conducted at the headquarters resulted at a finding that appellant was the killer of Cipriano. The witnesses who were investigated and who pointed to appellant as the culprit were Rogelio Peralta, Cipriano's wife, Prudencio Feriamil, the Chief Barangay Tanod and the Barangay Captain.[10]

In his defense, appellant claimed that he was framed up and that it was actually Feriamil who killed Cipriano. A handicraft worker from Lipit, Manaoag, Pangasinan, appellant, who was also known as "Poldo," was introduced to Prudencio Feriamil by his brother-in-law at a gathering in Macayog, San Jacinto, Pangasinan. Feriamil convinced appellant to work as his industrial partner in the tobacco plantation the former operated in Anonang, San Fabian, Pangasinan. Leaving his family behind, appellant accepted the offer and began work in January 1992. He stayed with Feriamil in a hut about a hundred meters away from the tobacco plantation. He met Leticia Bandarlipi for the first time when the latter arrived with Feriamil who introduced her as his kumadre. Leticia had, since then, become a frequent visitor of Feriamil in the hut.[11]

Appellant recalled that he last saw Leticia in an uncompromising situation with Feriamil sometime in April 1992. The two were lying naked on a bamboo bed inside the hut with Leticia on top of Feriamil. Perplexed by what he saw, appellant hurriedly went out of the hut. The illicit lovers emerged a little later and begged appellant not to disclose to anybody what he had witnessed. Appellant told them not to worry. The two did not go home immediately for fear that they would get sick (pasma) but apparently in her haste to leave, Leticia left in a corner of the hut a pink panty with the name "Letty Bandarlipi" embroidered on it. Appellant kept the panty in a plastic bag intending to return the same to its owner. However, since Leticia never visited the house again, appellant could not return the panty to her. Appellant produced the panty in court as Exhibit 4 and 4-A.[12]

After the harvest season in May 1992, appellant went home to visit his family in Manaoag. During his absence, Feriamil and Leticia sold tobacco for Thirty-Five Thousand Pesos (P35,000.00) but they refused to give appellant his share in the proceeds. Appellant made several attempts to collect his share but Feriamil merely advised him to

keep his patience while he searched for money as Leticia had taken the proceeds of the sale.[13]

While appellant was in his hometown, Cipriano Bandarlippe was killed. The persons who rushed him to the hospital, namely, Barangay Captain Felipe Solis, Jose Gagaza, Jr. and Barangay Security Force Chief Zaldy Aquino, proceeded to the PNP Headquarters in San Fabian, Pangasinan to report the incident.[14] Solis believed that Feriamil (Periamil) could have authored the crime per the information given him by Gagaza because Feriamil was often in the company of "Leopoldo Bautista." [15] The report of Solis was written on the police blotter as Entry No. 187.[16] In fact, Solis brought Feriamil to the police station on December 1, 1992 and even the NBI[17] in Dagupan City but Feriamil's investigation yielded a negative result so that Feriamil was able to go home with Solis.[18]

On the other hand, Gagaza's report to the police was entered in the blotter as follows:

This has ref to entry Nr. 187, in this Police Blotter dtd 30 Nov. 92, Jose Gagasa y Castro, 25 years old, single, a resident of brgy. Anonang this mply appeared to this station and informed that when he accompanied the victim (Cipriano Bandarlippe) at the hospital. He the (victim) stated that he was shot by one Domy Ferreamil also of same place, and in the presence of Brgy. Capt. Felipe Solis and chief Brgy. Force Saldy Aquino of brgy. Anonang this town, when he stated same words against the suspect.

Jose C. Gagaza, Jr.[19]

Exhibit "3-a," a document dated September 11, 1998 that was issued by Chief Inspector Fausto M. Cayabyab, Jr., shows that SPO2 Ricardo D. Abrio, police desk officer, confirmed that Gagaza, Jr. had affixed his signature on the same police blotter.[20]

Sometime in August 1993, appellant returned to Anonang to collect his share of the proceeds of the sale of tobacco from Feriamil. The latter requested him to come back after one month. In his frustration, appellant threatened to reveal the amorous relationship between Leticia and Feriamil.[21] In the evening of September 3, 1993, Zaldy Aquino invited Solis and Feriamil to his residence. Solis and Aquino asked Feriamil if he had anything to do with the killing of Cipriano Bandarlippe or if he knew anything about it. Feriamil replied that "Poldo Bautista" killed Cipriano and that "Poldo Bautista" was supposed to go to his residence on September 5, 1993.[22]

Appellant, his sister and brother-in-law indeed returned to Feriamil's house on that date. Feriamil asked them to wait while he prepared some snacks. While appellant's group was drinking coffee, several people including Solis, Sgts. Tabilen and De Guzman, Rogelio Peralta and Jose Gagasa, Jr. entered the house. They pointed a gun at appellant and his companions, telling them not to move. They told appellant's group that if they valued their lives, they should go down the house. As they were descending from the house, someone asked Feriamil, "Who among these?" Feriamil pointed to appellant and immediately someone struck him with the butt of a gun. With his hands tied at the back, appellant was brought to the 152nd PC Command in Lingayen, Pangasinan where he was mauled to force him to admit the killing of Cipriano with whom he was not even acquainted.[23]

Based on the statements executed on September 5, 1993 by Jose Gagaza, Jr.,[24] Prudencio Feriamil,[25] Leticia Bandarlippe,[26] Rogelio Peralta[27] and Felipe Solis,[28] an information for murder was filed against appellant. In his sworn statement, Jose Gagaza, Jr., a Barangay Tanod declared, among others, that at the time of the incident, he heard a gun explosion; that immediately after he heard Cipriano asking for help as he was shot; that when he came near the victim, the latter while being cradled by his wife Leticia, declared that it was "Poldo Bautista" who shot him; and that while on the way to the hospital where he was brought by a group, including Gagaza Jr., the victim repeatedly identified "Poldo Bautista" as the one who shot him.

Feriamil, for his part, stated that when appellant came home disturbed and with a gun that fateful night of November 30, he confessed to having killed Cipriano. He and appellant then slept. In the morning of November 31, 1992 (sic), Barangay Captain Solis and some policemen arrived and brought him (Feriamil) to the police station where he was asked about the killing of Cipriano. Feriamil told the police that he did not know anything about the matter but he did not relate to them what appellant had confessed to him the night before because he was afraid.

The sworn statements of Leticia Bandarlipe, Rogelio Peralta and Felipe Solis were all reiterated in their respective testimonies.

As stated at the outset, the trial court convicted appellant of the crime of murder and condemned him to suffer the penalty of reclusion perpetua. It gave weight and credence to the circumstantial evidence that appellant was seen holding a gun near the fallen victim soon after witnesses Leticia Bandarlipe and Rogelio Peralta had heard the gun report. Thus, the trial court ratiocinated:

The reason given by Alfonso Bautista that he was framed up in this case in order that he could not reveal what he had observed between Prudencio Feriamil and Leticia Bandarlipe is devoid of merit. The prosecution, thru the testimony of Rogelio Peralta, clearly established that Rogelio Peralta had seen Alfonso Bautista holding a gun on November 30, 1992 at around 8:30 in the evening while on the road walking near the house of Cipriano Bandarlipe at Anonang, San Fabian, Pangasinan, at which place he heard a burst of a gun. He met accused Alfonso Bautista and the latter was carrying a firearm. This witness could not have committed a mistake because there was a light of the payloader which was focused to the accused. The testimony of Rogelio Peralta was supported by the testimony of Leticia Bandarlipe who declared that she had seen Alfonso Bautista holding a gun and the gun was still pointed to the deceased while he was sprawled on the ground. In fact, this prosecution witness clearly stated that the accused immediately ran away when she had seen him.

There is no question that the witness had seen the accused. In fact she (Leticia Bandarlipe) testified that she saw Alfonso Bautista standing near her husband about two meters away. The place where the incident took place was lighted by a payloader, aside from the light coming from the house of her in-laws.

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Furthermore, when he was invited to the headquarters at Lingayen, Pangasinan, the accused went with Leonardo Tabilin, Chief of the Intelligence of the PNP Command willingly. During the investigation, it was found out that Alfonso Bautista was the one who killed Cipriano Bandarlipe.[29]

Aggrieved by the above decision, appellant interposed the instant appeal, assigning the following as errors of the court a quo:

I

THAT THE TRIAL COURT ERRED IN FAILING TO CONSIDER AND TAKE INTO ACCOUNT THE DYING DECLARATION MADE BY THE DECEASED VICTIM.

II

THAT THE TRIAL COURT ERRED IN FAILING TO CONSIDER AND TAKE INTO ACCOUNT THAT FAILURE OF WITNESSES TO POINT THE ACCUSED IMMEDIATELY AFTER THE SHOOTING INCIDENT WEAKENS THEIR CREDIBILITY.

III

THAT THE TRIAL COURT ERRED IN FAILING TO CONSIDER AND TAKE INTO ACCOUNT THE SUPPRESSION OF EVIDENCES (sic) BY THE PROSECUTION AND THE DEFENSE OF THE

ACCUSED.

IV

THAT THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED.[30]

Appellant asserts that Gagaza's statement in the police blotter that the victim identified "Domy Feriamil" as his assailant constituted a dying declaration that should have been given due evidentiary weight.

A dying declaration, also known as an ante mortem statement or a statement in articulo mortis, is admissible under the following requisites: (1) that death is imminent and the declarant is conscious of that fact; (2) that the declaration refers to the cause and surrounding circumstances of such death; (3) that the declaration relates to facts which the victim is competent to testify to; and (4) that the declaration is offered in a case wherein the declarant's death is the subject of the inquiry.

In the case at bar, the trial court correctly rejected the ante mortem statement of the victim. Records show that Jose Gagaza, Jr., the person who allegedly heard the victim's ante mortem statement, was never presented in court to testify on the matter. It has been held that if the dying declaration was made orally, it may be proved by the testimony of the witness who heard the same or to whom it was made.[31]

The entry of the same statement in the police blotter alone will not suffice to confer upon it the desired evidentiary weight. Entries in police blotters are only prima facie evidence of the facts stated therein.[32]

The above exposition notwithstanding, appellant's bid for exoneration deserves a second look.

While as a general rule, the findings of fact of the trial court on the credibility of witnesses are entitled to great weight and respect on appeal, this rule cannot be strictly applied where significant facts and circumstances that could affect the result of the case if properly considered, had been overlooked and disregarded by the trial court.

In the instant case, we find that the prosecution's evidence are so teeming with loopholes and inconsistencies as to render them unworthy of belief.

It is doctrinal that the requirement of proof beyond reasonable doubt in criminal cases does not entail absolute certainty of the fact that the accused committed the crime. Neither does it exclude the possibility of error. What is required is moral certainty or that degree of proof that produces conviction in an unprejudiced mind.[33] Thus, inconsistencies in testimonies that refer only to minor and insignificant details of an incident are considered to reinforce rather than weaken a witness' credibility because minor inaccuracies suggest that the witness is telling the truth.[34] However, the rule that factual findings and assessment of credibility of witnesses generally bind this Court cannot be strictly applied where significant facts and circumstances that could affect the result of the case if properly considered, were overlooked and disregarded by the trial court.[35] In this case, the Court finds that inconsistencies in the testimony of the principal prosecution witness as regards the identity of the assailant are so glaring that giving such testimony the weight and credence stamped upon it by the trial court would result in grave injustice.

In her direct testimony, principal prosecution witness Leticia Bandarlipé categorically stated that the victim identified appellant as his assailant. Thus:

Q:

Aside from seeing the accused two (2) meters standing from your husband (sic), what else did you do there?

A:

When I went to embrace him and I saw Leopoldo Bautista (sic) standing and asked my husband who shot him

and he said it was Poldo Bautista.[36]

However, on cross-examination, Leticia admitted that she was not able to talk to her husband anymore thereby reversing herself on the identification of appellant by the victim. She testified as follows:

Q:

The records show that inspite of the fact that you saw Poldo Bautista pointing a gun towards the body of your husband, you still ask(ed) him who shot him, am I right?

A:

Yes, sir.

Q:

Madam Witness, I have here a copy of the transcript of stenographic notes during the reinvestigation of this case and you answered to the question on page 19 of said transcript that you were not able to talk to him anymore, the prosecutor referring to your husband, from Anonang to the hospital and your answer is, no more, do you remember this answer, 'no more, sir'?

A:

Yes, sir. (*Italics supplied.*)[37]

This testimony has left the Court baffled as to whether or not the victim indeed identified appellant as his assailant. Likewise, the Court cannot see its way clear why Leticia should still ask her husband who shot him when she allegedly saw appellant still pointing the gun at him.[38] She would have asked her husband who shot him only if she did not see or identify appellant as the culprit. However, she categorically testified that as soon as she heard gunfire, she rushed to her husband who was sprawled on the ground and saw, two (2) meters away, appellant with a gun in his hand.[39] In fact, in her sworn statement, she admitted having seen appellant shoot her husband. Thus:

06. T - Papaano ninyo nalaman na si Poldo Bautista ang pumatay sa iyong asawa?

S - Nakta (sic) ko po nang barilin ni Poldo Bautista ang aking asawa, sir.[40]

While her statement that she saw Poldo Bautista shoot her husband may be interpreted loosely as that she was present when her husband was shot but not necessarily that she saw the actual shooting incident nevertheless, the seeming inconsistency cannot but engender doubt in our minds as to what actually transpired during that fateful evening. At the very least, Leticia Bandarlipé's testimony does not inspire belief that she was telling the truth as to the identity of appellant as the felon.

It is also worthy to note that whereas Leticia initially denied having talked to the local officials who accompanied her to the hospital she subsequently admitted that Barangay Captain Solis, et al. went to her house the day after the incident and talked to her about filing a case in connection with her husband's murder, which she refused to do.

If it is true that Leticia Bandarlipé actually saw her husband being shot by appellant, or that her dying husband told her that it was appellant who shot him, why did she not report what she saw and heard to the two barangay tanods, Gagaza and de Leon, who responded to her shouts for help; and, why was she reluctant to file a complaint against the gunman whom she allegedly saw shoot her husband. Her acts are contrary to the natural tendency of a

witness closely related to the victim, to report a crime and describe the malefactor at the earliest possible opportunity.[41]

In fact, it was not until about ten (10) months later that Leticia executed a sworn statement pointing to appellant as the assailant of her husband Cipriano.

On the other hand, prosecution witness Rogelio Peralta testified that on the evening of November 30, 1992, while he was passing near the victim's house on his way home, he heard a gunshot. As he walked on, he met appellant whom he recognized by the light of a payloader which was passing by. He allegedly saw appellant carrying a long firearm. He went to the side of the road and when appellant was no longer in view, he continued walking home. About an hour thereafter, he learned that the victim was shot.[42] And yet, Peralta gave his statement on the above incident only on September 5, 1993 or about ten (10) months after the shooting, allegedly out of fear of the appellant. While the initial reluctance and consequent delay of a witness in getting himself involved in a criminal case may not impair his credibility nor destroy the probative value of his testimony, this holds true only when said delay is adequately explained.[43] But where the witness' reason for delay in reporting to authorities is baseless, his testimony will not inspire belief.[44] Here, Peralta was then a member of the Barangay Tanod or "security force" of the locality.[45]

He knew policeman Tabilin who is also a resident of Anonang,[46] and from whom he certainly could have asked for help and protection if he wanted to. Note that this is the same Sgt. Tabilin who led the group, which included Peralta, in arresting appellant.[47]

More importantly, based on his own admission, Peralta merely learned of the shooting of Bandarlipé from the people who rushed to the scene of the crime. He did not in fact witness the shooting, but merely presumed it was appellant who shot the victim because he saw appellant carrying a gun near the vicinity of the crime scene.

Appellant contends that the prosecution suppressed evidence in not presenting Jose Gagaza, Jr., Prudencio Feriamil and Barangay Captain Felipe Solis.[48] The records show, however, that Felipe Solis did testify for the accused at the trial in this wise:

Q.

In this affidavit Mr. Witness, the (sic) question No. 11, which I quote: "Q - pagkatapos na namatay sa Pangasinan Provincial Hospital si Cipriano Bandarlipé, ano ang sumunod na action ninyo bilang Barangay Kapitan ng Anonang, San Fabian, Pangasinan? A - Ako at si Barangay Chief Tanod Zaldy Aquino ay pumunta kami sa himpilan ng pulisya ng San Fabian dahil pinagsususpetsahan namin si Prudencio Periamil (sic)," do you still affirm this question and answer of yours?

A. Yes, sir.

Q. Could you inform the Court what is your basis in suspecting Prudencio Periamil (sic)?

A. We suspected him because we believed that he was the one.

xxx.

Q. Will you please tell us, who mentioned the name Periamil (sic)?

A.

Jose Gagasa, sir.[49]

Given the alleged knowledge of Gagasa of certain vital facts surrounding the crime, it is highly surprising why the prosecution did not call him to testify if only to clarify why on the day the crime was committed, he caused the entry in the police blotter naming Feriamil as the main suspect in the murder; whereas, in his sworn statement dated September 5, 1993, he made a contradictory declaration, by saying that while they were on their way to the hospital, the victim repeatedly told him that he was shot by appellant.

It is true that the matter of deciding whom to present as witness for the prosecution is not for the accused or for the trial court to decide, as it is the prerogative of the prosecutor.[50] However, it is equally true that when a party has in his possession or power to produce the best evidence of which the case in its nature is susceptible and withholds it, the fair presumption is that the evidence is withheld for some sinister motive and that its production would thwart his evil or fraudulent purpose.[51]

In the case at bar, there are pieces of evidence on record which, if properly considered, would certainly raise questions consistent with the proposition that the prosecution might have accused the wrong person, foremost of which is Barangay Captain Solis' testimony that Feriamil was the original suspect in the murder, and Leticia Bandarlipse's admission that Solis and Gagasa went to her house the day after her husband's murder to solicit her cooperation in the prosecution of Feriamil.

If Prudencio Feriamil was the original suspect, why was he not duly investigated for the murder of Cipriano Bandarlipse? And why did Leticia Bandarlipse refuse to cooperate with the authorities in the investigation and prosecution of Feriamil?

Finally, why did the prosecution not present Feriamil as a witness when the records show that he was instrumental in naming appellant as the alleged assailant, and in leading the authorities to the latter's arrest?

Noteworthy is the testimony of prosecution witness Leonardo Tabilin, who upon cross-examination answered thus:

Q.

And as a matter of fact, it was Prudencio Feriamil who related that this Alfonso Bautista was the one responsible of the killing (sic) of several persons, and these are Federico Dispo, Efren Reyes, and alleged Barangay Captain of Pozorrubio?

A.

While we are gathering, it is not only from persons whom we directly gather, we will also proceed in order that we could arrive at intelligence work (sic).

Q.

But on September 3, when Prudencio Feriamil informed you that Alfonso Bautista was the one responsible of killing (sic), including Cipriano Bardarlipse?

A.

Yes, sir.[52]

Likewise on record is Feriamil's own incredible version of how he came to know of appellant's involvement in the

crime:

Q.

Maalaala mo pa ba kung nasaan ka noong Nobyembre 30, 1992 bandang alas 8:30 ng gabi?

A

Opo sir. Nasa labas po ako ng aking bahay sa Barangay Anonang, San Fabian, Pangasinan.

Q

Noong oras na iyon, mayroon bang nangyari na hindi pangkaraniwan?

A

Opo, sir. Nakarinig po ako ng isang putok ng baril na sa pagkaalam ko po ay malapit lang sa amin.

Q

Ano naman ang iyong ginawa pagkarinig sa putok ng baril na sinasabi mo?

A

Pumasok ako kaagad sa loob ng aking bahay at humiga na po ako.

Q

Ano naman ang sumunod na nangyari?

A

Noong bandang alas 9:00 ng gabing iyon, Nobyembre 30, 1992, isang nagngangalang Poldo Bautista ay dumating sa aking bahay na may dalang mahabang baril at nahiga sa loob ng aking bahay pero sa pakiwari ko ay parang balisang-balisa. Kaya tinanong ko siya kung bakit parang hindi siya makatulog at balisang-balisa at sinabi niya sa akin na pinatay niya si Cipriano Bandarlipe.

Q

Ano naman ang ginawa mo noong nalaman mo na si Poldo Bautista ay pinatay niya si Cipriano Bandarlipe?

A

Ako at si Poldo Bautista ay nakatulog na hanggang sa kinabukasan.

Q

Ano ang iyong ginawa noong pagkagising mo kinabukasan?

A

Noong bandang alas sais ng umaga noong Nobyembre 31, (sic) 1992, Barangay Captain Felipe Solis at may kasamang mga pulis ay dumating sa aking bahay at dinala ako sa himpilan ng pulisya ng San Fabian.

Q

Ano naman ang ginawa sa iyo noong dinala ka sa himpilan ng pulisya ng San Fabian, Pangasinan sa araw na iyon?

A

Tinanong po ako tungkol sa pagkamatay ni Cipriano Bandarlipe pero sinabi ko sa kanila na hindi ko po alam ang bagay na iyon.

Q

Hindi mo ba sinabi sa mga pulisya ng San Fabian ang ipinagtapat sa iyo ni Pol Bautista noong dumating sa iyong bahay noong gabing iyon?

A

Hindi po sir, dahil natakot po ako.[53]

As in the case of witnesses Rogelio Peralta and Leticia Bandarlipe, Feriamil's alleged reaction to the killing of Cipriano Bandarlipe is beyond credulity. How could Feriamil have slept so easily and so soundly with the confessed assailant of his "kumpadre?" Even more amazing is the fact that when he (Feriamil) was brought for questioning to the police station the day after the shooting, he simply kept silent about what he knew despite the fact that he was the main suspect in the murder, and only revealed appellant's alleged confession about ten (10) months after the incident.

Finally, as correctly noted by the Solicitor General, appellant has no motive at all for killing the victim. While generally, the motive of the accused in a criminal case is immaterial and does not have to be proven,[54] proof of the same becomes relevant and essential when, as in this case, the identity of the assailant is in question.[55]

Considering the apparent unreliability of the evidence proffered by the prosecution, this Court is constrained to rule for an acquittal. In all criminal cases, all doubts should be resolved in favor of the accused on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.[56] Conviction, it is said, must rest on nothing less than a moral certainty of guilty that we find here to be wanting.[57]

WHEREFORE, the decision of the trial court is hereby REVERSED and SET ASIDE and appellant Alfonso Bautista is hereby ACQUITTED for lack of proof beyond reasonable doubt that he committed the crime of murder against Cipriano Bandarlipe. The Director of Prisons is hereby directed to forthwith cause the release of accused-appellant unless the latter is being lawfully held for another cause and to inform the Court accordingly within ten (10) days from notice.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Melo, Pardo, and Ynares-Santiago, JJ., concur.

- [1] Records, pp. 196-197; Decision penned by Judge Crispin C. Laron.
- [2] Per his signature, Records, p. 69.
- [3] Id., at 8.
- [4] Id., at 6-7.
- [5] Id., at 1.
- [6] She signed her name as "Leticia N. Bandarlippe" over the typewritten name "Letecia N. Bandarlippe" in her sworn statement of September 5, 1993 (Exh. C), Records, p. 17.
- [7] TSN, December 28, 1993.
- [8] Ibid.
- [9] Records, p. 47.
- [10] TSN, January 12, 1994.
- [11] TSN, March 11, 1994.
- [12] Ibid.
- [13] Ibid.
- [14] TSN, February 3, 1994.
- [15] Id., at 6.
- [16] Upper portion of Exh. 3a, Records, p. 163.
- [17] TSN, February 3, 1994.
- [18] Exh. 2., Records, p. 21.
- [19] Exh. "3-a," Records, p. 163.
- [20] Ibid.
- [21] TSN, March 11, 1994.
- [22] See note 16.
- [23] TSN, March 11, 1994, pp. 14-18.
- [24] Records, p. 10.
- [25] Id., at 12-14
- [26] Id., at 15 & 17.
- [27] Id., at 19.
- [28] Id., at 21 & 23.
- [29] Id., at 195-196.
- [30] Rollo, pp., 50, 52, 59 & 63.

- [31] U.S. vs. Montes, 6 Phil. 443; U.S. vs. Gil, 13 Phil. 530; U.S. vs. Javellana, 14 Phil. 186; U.S. vs. Ramos, 27 Phil. 300; People vs. Dizon, 44 Phil. 267.
- [32] People vs. Paragua, 326 Phil. 923, 929 (1996); People vs. San Gabriel, 323 Phil. 102, 11 (1996); People vs. Prado, 251 SCRA 690, 698 (1995).
- [33] People v. Magana, 259 SCRA 380, 400 (1991).
- [34] People v. Escandor, 265 SCRA 444, 450-451 (1996).
- [35] People v. Ortiz, 266 SCRA 641, 653 (1997); People v. Ganan, Jr., 256 SCRA 260, 279 (1996).
- [36] TSN, December 29, 1993, pp. 13-14.
- [37] TSN, January 4, 1994, pp. 3-4.
- [38] Id., at 3.
- [39] TSN, December 29, 1993, p. 8.
- [40] Exh. C, Records, p. 22.
- [41] People vs. Escalante, 238 SCRA 554, 566 (1994).
- [42] TSN, Dec. 28, 1993, pp. 6-8.
- [43] People vs. Aniscal, 228 SCRA 101, 110 (1993).
- [44] Ibid.
- [45] Rollo, p. 123.
- [46] TSN, Dec. 28, 1993.
- [47] TSN, March 11, 1994.
- [48] Appellant's Brief, pp. 17-19.
- [49] TSN, Feb. 3, 1994.
- [50] People vs. Porras, 325 Phil. 858, 876 (1996); People vs. Nicolas, 311 Phil. 79, 87 (1995).
- [51] People vs. Rodriguez, 232 SCRA 498, 503 (1994); People vs. Villafuerte, 232 SCRA 225, 235 (1994).
- [52] TSN, January 12, 1994, pp. 18-19 (Underscoring supplied).
- [53] Rollo, pp. 128-129.
- [54] People vs. Tiangco, 133 SCRA 290.
- [55] U.S. vs. McMann, 4 Phil. 161.
- [56] People vs. Esmaquilan, 325 Phil. 576, 583.
- [57] People vs. Quindipan, 323 Phil. 497, 507.

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