

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO EBIAS Y MAGANA, ACCUSED-APPELLANT.

G.R. No. 127130. October 12, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This case is here on automatic review in view of the imposition by the Regional Trial Court, Branch 33, Siniloan, Laguna of the death penalty on accused-appellant Ernesto Ebias for the complex crime of murder with frustrated murder. A new trial is sought by accused-appellant on the ground of newly-discovered evidence.

The facts are as follows:

On December 13, 1994, accused-appellant Ebias and a John Doe were charged with murder with frustrated murder in an information[1] filed by the Provincial Prosecutor of Laguna who alleged -

That on or about 12:00 o'clock noon on July 8, 1994 at Barangay Dambo, Municipality of Pangil, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused while conveniently armed with a deadly weapon (home made gauge 12 sulpak) with evident premeditation and with treachery and take advantage of superior strength, with intent to kill, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and shoot once Ronaldo Narez and Tirso Narez by the said weapon thereby inflicting upon Tirso Narez multiple gun shot wounds in the abdomen and right shoulder which caused his death, to the damage and prejudice of the surviving heirs of the victim; and Ronaldo Narez sustained gun shot wound in the right leg, thus, accused has performed all the acts of execution which could have also produced the felony of Murder as a consequence with respect to said victim which nevertheless did not produce the felony by reason of cause independent of the will of the accused, that is, due to the timely and able medical assistance rendered to said Ronaldo Narez which prevented his death and to his damages and prejudice.

That the qualifying and aggravating circumstances of treachery, evident premeditation and abuse of superior strength attended the commission of the crime.

When arraigned, accused-appellant Ernesto Ebias pleaded not guilty whereupon trial proceeded. Evidence was presented by the prosecution showing the following:

On July 7, 1994 at around 12 noon, Ronaldo Narez and his cousin, Tirso Narez, went to get some jackfruit in Barangay Dambo, Pangil, Laguna. On their way, they saw two men sitting by the roadside. As they were nearing the place where the two men were, the latter waved at them. Ronaldo and Tirso Narez ignored the summon and continued walking. When they were about 15 meters from the men, they heard one of the men, who was brandishing a bolo, say "Boy, tirahin mo na." The other man then drew his sulpak and shot them. Ronaldo and Tirso Narez ran towards the kaingin. Ronaldo Narez realized that his right leg was bleeding. Nonetheless, he managed to reach his house and told his father what had happened. Ronaldo was taken to the Pakil Hospital for treatment. Tirso, who had also been taken to the same hospital, suffered a gunshot wound on his stomach.[2] He

died from his injuries the next day, on July 9, 1994.[3]

On July 11, 1994, Ronaldo Narez executed an affidavit identifying his assailant as a certain Boy Marantal. In his affidavit, marked as Exhibit B, Ronaldo stated:

2

: Ano ang dahilan at ikaw ay nandidito sa tanggapan ng Pulisiya ng Pangil, Laguna at ikaw ay kinukunan ng salaysay?

: Sa dahilan po na kami ay binaril na ang aking kasama ay namatay at ako ay may tama.

3

: Kailan at saan naman nangyari ang bagay na ito, kung iyong tanda?

: Noong pong petsa 8 ng Hulyo, 1994, humigit kumulang sa oras alas 12:00 ng tanghali sa Brgy. Dambo, Pangil, Laguna.

4

: Sino naman ang bumaril sa inyo, kung iyong nakikilala?

: Ang bumaril po sa amin ay akin po lamang nakilala sa alias Boy Marantal at kung aking makikitang muli ay aking maituturo.

5

: Maaari bang iyong isalaysay ang buong pangyayari sa ikaliliwanag ng imbistigasyong ito?

: Noong pong kami ay nasa karsada ay may nakita kaming dalawang tao na kami ay tinatawag at kinakawayan at kami po ay hindi naman lumapit at pagkatapos po ay sila ang lumapit sa amin at nang ang layo sa amin ay humigit kumulang na labing limang dipa ay aking narinig itong may dalang itak na mahaba na nakalagay sa kaluban na nakasukbit sa baywang at ang sabi dito sa kasama niya na nakasoot na patigue ang pangitaas ay "BOY TIRAHIN MO NA" at pagkatapos po ay may kinuha sa likod itong alias Boy sa kanyang likod na isang parang tobo at ito ay pumutok at kami pong dalawa ng aking kasama ay nanakbo na papuntang kaingin at sa pagtakbo naming iyon ay kami ay nagkahiwalay hanggang sa aking maramdaman na ang aking binti ay kumikirot at nang aking tingnan ay may sugat ito hanggang sa ako ay makarating sa aming bahay at sinabi ko sa aking Tatay na ako ay may tama ng baril at ako po ay dali-dali nilang inilabas sa karsada at ako ay kanilang dinala sa hospital ng Pakil, Laguna upang magamot at hindi pa ako gasinong natatagalan ay may dumating na isang traysikel at aking nakita na ang ibinababa ay ang aking pinsan at ito ay may tama din at nang kami po ay isakay sa Mobile ng Pangil PNP upang ilipat sa Sta. Cruz, Laguna sa hospital ay aking nakita na ang aking pinsan ay may tama sa tiyan at ibaba ng kanang balikat at pagkatapos po ay nitong madaling araw ng petsa 9 ng Hulyo 1994 ay namatay ang aking pinsan.

6

: Ano pa ang sumunod na pangyayari, kung mayroon man?

: Wala na po akong alam.

7

: Paano mo naman nalaman na Boy Marantal ang pangalan nintong bumaril sa inyo?

: Dahil po sa iyon po ang aking pagkakilala sa kanya na aking natandaan.

8

: Ito bang si Boy Marantal na ito ay matagal mo nang nakikilala?

: Hindi ko po siya masyadong kilala pero isang beses ko na siyang nakita at pangalawa ay nang kami ay barilin.

9

: Alam mo ba naman kung tiga saan itong si Boy Marantal?

: Hindi po pero sa aking pong palagay sa naninirahan din sa Brgy. Dambo, Pangil, Laguna.

10

: Anong klasing baril naman ang ibinaril sa inyo, kung iyong alam?

: Isa pong de sabog na yari sa tobo na kung tawagin ay Sulpak.

11

: Ilan beses naman kayong binaril?

: Isa pong beses lamang.

12

: May mga nakakita ba naman sa pangyayari ng kayo ay barilin?

: Wala po dahil sa malayo sa kabahayan ang pinangyarihan.

13

: Ano naman ang tunay na pangalan ng iyong pinsan na namatay na iyong kasama ng barilin?

: Tirso Nariz po na nakatira sa Brgy. Dambo, Pangil, Laguna."[4]

About a month later, on August 16, 1994, Ronaldo executed another affidavit (Exhibit F) in which he said that accused-appellant Ernesto Ebias was the same Boy Marantal who shot him and his cousin on July 8. Ronaldo said in his latest affidavit:

2

: Ano ang dahilan at ikaw ay nandidito sa tanggapan ng Pulisiya ng Pangil, Laguna at ikaw ay kinukunan ng salaysay?

: Sa dahilan po na nais kong ipabatid na nakilala at nakita ko na ang bumaril sa amin noong July 8, 1994, humigit kumulang sa oras alas 12:00 ng tanghali sa Brgy. Dambo, Pangil, Laguna.

3

: Kailan mo naman nakita o nakilala ang taong iyong sinasabi na bumaril sa inyo, kung iyong tanda?

: Noong pong petsa 15 ng Agosto, 1994, humigit kumulang sa oras alas 7:00 ng gabi sa Brgy. Dambo, Pangil, Laguna.

4

: Ano naman ang pangalan ng bumaril sa inyo, kung iyong nakikilala at iyong nakita?

: Napagalaman ko na lamang po dito sa Himpilan ng Pulisiya ng Pangil, Laguna na ang pangalan ay si Ernesto Ibeas na naninirahan sa Brgy. Dambo, Pangil, Laguna.

5

: Bakit mo naman ngayon lamang itinuro ang bumaril sa inyo, sa anong dahilan?

: Dahilan po na ngayon ko po lamang nakita ang taong bumaril sa amin.

6

: Bakit mo naman ngayon lamang nakita?

: Sa dahilan po na ako po ay nagtigil sa San Pablo City at nang ako po ay umuwi sa Brgy. Dambo, Pangil, Laguna ay doon ko po nakita ang bumaril sa amin.

7

: Ano naman ang ginawa mo nang iyong makita at makilala ang taong bumaril sa inyo?

: Nang aking pong makita ang taong bumaril sa amin ay aking pong ipinaalam sa Hepe ng Brgy. Tanod na si Jose de Guia.

8

: Inuulit ko sa iyo, may taong nandito sa aming Himpilan ng Pulisiya ng Pangil, Laguna, ito ba ang iyong nakikilala?

: Iyan pong taong iyan ang bumaril sa amin (Witness identified the person of ERNESTO EBIAS residing at Brgy. Dambo, Pangil, Laguna).

9

: Nang makilala mo ba na si Ernesto Ebias, ito ba ay mapapatunayan mo sa Husgado na siya na ang bumaril sa inyo?

: Opo.

10

: Hindi ka kaya nagkakamali sa pagkakilala mo kay Ernesto Ibeas na siya ang bumaril sa inyo?

: Hindi po.

11

: Sino ang kasama mo nang ikaw ay barilin?

: Ang akin pong pinsan na si Tirso Nares at ito ay namatay."[5]

During the trial, Ronaldo Narez reiterated in open court that accused-appellant Ernesto Ebias and Boy Marantal were one and the same person.[6] However, he could not identify accused-appellant's companion as the latter's face was covered with a yellow handkerchief.[7]

Accused-appellant's defense consisted of denial and alibi. A defense witness, Isagani Maray, claimed that accused-appellant Ebias, together with several laborers, was working in a citrus plantation in Pangil, Laguna on the day in question.[8] Maray admitted, however, that the plantation where accused-appellant was allegedly working was only around 10 meters from the place of the incident.[9] Accused-appellant claimed that he was at the Vista Villamayor Citrus Plantation at the time of the commission of the crime. At around 12 noon of that day, when the shooting took place, he ate lunch at his house with Isagani Maray and other members of his family.[10]

On May 15, 1996, the court rendered a decision, finding accused-appellant guilty of the crime of murder with frustrated murder. The dispositive portion of its decision reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding accused ERNESTO EBIAS y MAGANA guilty beyond reasonable doubt of the complex crime of "MURDER with FRUSTRATED MURDER" as charged, qualified by the qualifying circumstance of treachery, without any mitigating or aggravating circumstance, and pursuant to the provision of Art. 48 of the Revised Penal Code, hereby sentences him the maximum penalty of death. To indemnify the heirs of Tirso Narez, in his death the amount of P50,000.00 and as actual damages the amount of P12,000.00 representing the amount spent in the wake, funeral and for coffin. To indemnify Ronaldo Narez as actual damages the amount of P2,000.00 representing medical expenses. To pay the cost.

SO ORDERED.[11]

On appeal to this Court, accused-appellant maintained that the prosecution failed to comply with the rules for the protection of the rights of the accused during confrontations with alleged eyewitnesses before the police. He further contended that the trial court erroneously gave credence to the testimony of a perjured eyewitness upon whose sole testimony hinged the entire case against him. Lastly, he argued that the trial court failed to appreciate uncontroverted facts established by the defense as well as admissions against interests made by the prosecution witnesses.[12]

On November 20, 1998, accused-appellant filed a motion seeking the appointment of a counsel de oficio for Leonardo Eliseo, a death convict at the National Bilibid Prison, who wrote a letter confessing to the commission of the crime for which accused-appellant was held liable.[13] In a resolution, dated April 27, 1999, the Court denied accused-appellant's motion for lack of merit.[14] On February 3, 2000, accused-appellant moved for new trial on the ground of newly-discovered evidence. Accused-appellant averred that new and material evidence had been discovered by the defense, consisting of a confession made by Leonardo Eliseo, also a death row convict, that he committed the crime for which accused-appellant was convicted and sentenced to death. Accused-appellant further alleged that such evidence could not have been discovered and produced during his trial because it was only after his conviction that he came to know of Eliseo's responsibility for the crime and his willingness to confess. Accused-appellant asserted that Eliseo's confession would probably change the judgment if it was introduced in evidence.[15]

Attached to accused-appellant's motion for new trial was an affidavit[16] executed by Leonardo Eliseo narrating his participation in the shooting of Tirso and Ronaldo Narez. The affidavit reads in full as follows:

AKO, si bilanggong LEONARDO ELISEO Y SAN LUIS, 33 taong gulang, kasalukuyang nakakulong dito sa Pambansang Piitan at nakaselda sa I-B, Maximum Security Compound, Muntinlupa City, matapos makapanumpa ng ayon sa Saligang Batas, ay malayang nagsasalaysay ng mga sumusunod:

- Na noong ika-20 ng Hunyo 1994, pumunta kami sa Barangay Lambak, Mabitak, Laguna sa bahay ng aking kumpare na si Berting mga ganap na alas 9:00 ng gabi na kasama ang aking kaibigan na si Boy, para mag-inuman.

- Na may isang bisita si Berting na hindi ko na matandaan ang pangalan na nagkwento na may isa daw Bombay sa kanilang barrio na maganda daw holdapin dahil pag nadale daw namin ito at tiba-tiba kami dahil kadalasan ay marami daw itong dalang pera at alahas;

- Na aming tinandaan ito at kinabukasan ay minatiyagan na namin itong bombay at pinagplanuhan naming holdapin ito. Hinanap namin ang lugar na madalas niyang puntahan at may nag-tip sa amin kung kailan ang magandang petsa na siguradong may dala itong malaking pera. At natiyak namin sa ika-8 ng Hulyo 1994 ay may dalang malaking pera daw itong Bombay;

- Na noong ika-8 ng Hulyo 1994, alas 6:00 pa lang umaga habang hinihintay namin ang pagdaan noong Bombay na aming inaabangan, may dalawang lalaki na hindi namin kilala ang lumabas mula sa gubat;
- Na noong sila ay papalapit na sa amin ay medyo kinabahan kami at naglakad papalayo subalit patuloy pa rin kami nilang sinundan;
- Na agad naman dumaan ang sasakyan ng Bombay na dapat sana naming hoholdapin. At dahil sa inis dahil hindi namin naisakatuparan ang planong panghoholdap sa Bombay ay binaril ko ang dalawang taong sumusunod sa amin na may kalayuan na humigit kumulang sa limampung metro, sa pamamagitan ng armas ko na shotgun;
- Na tinamaan ko po ang isa sa tiyan samantalang ang isa ay sa hita, at habang ang isa sa kanila ay bumulagta at ang isa naman ay paika-ikang tumakbo, kami naman ay naglakad lang papalayo at papauwi sa aming bayan;
- Na ako ay nagbibigay ng salaysay ngayon dahil naawa po ako sa taong nahatulan ng bitay sa kasalanan na ang may kagagawan ay ako.
- Na ginawa ko ang salaysay na ito sa harap at patnubay ni Public Attorney Abelardo D. Tomas, Public Attorney's Office Muntinlupa, matapos niyang ipaliwanag sa akin ang aking mga karapatan at maipaalala na sa salaysay kong ito ako ay mananagot sa isang napakabigat na krimen.

BILANG PATUNAY na ang lahat ng aking isinalaysay dito ay pawang katotohanan lamang, ay nakahanda po akong lagdaan ito ngayong ika-4 ng Disyembre 1999, dito sa Lungsod ng Muntinlupa.

(signed)

LEONARDO S. ELISEO

N98P-1209

WITH MY ASSISTANCE

(signed)

ATTY. ABELARDO D. TOMAS

Public Attorney's office

SUBSCRIBED AND SWORN TO BEFORE ME this 14th December 1999.

(signed)

JOSELITO A. FAJARDO

Assistant Director

(Officer Administering Oath)"

The question now is whether or not Eliseo's confession constitutes newly-discovered evidence warranting a new trial in favor of accused-appellant. For newly-discovered evidence to be a ground for new trial, the following requisites must concur: (a) the evidence is discovered after trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; and (c) the evidence is material, not merely cumulative, corroborative, or impeaching, and of such weight that, if admitted, could probably change the judgment.[17]

Accused-appellant claims that it was only during his confinement at the Maximum Security Compound of the New Bilibid Prison in Muntinlupa that he met Leonardo Eliseo, a fellow death convict, and learned from the latter his alleged participation in the shooting of Tirso and Ronaldo Narez and that even with the exercise of reasonable diligence could not have earlier known of the confession of Leonardo Eliseo.

The Solicitor General does not dispute these allegations. He opposes accused-appellant's motion for new trial,

however, on the ground that Eliseo's confession "can not change the outcome of the judgment against accused-appellant because it can not overturn Ronaldo Narez's positive and unerring identification of accused-appellant as the person responsible for the crime." [18]

To be sure, the uncorroborated testimony of a lone witness is sufficient basis for the conviction of the accused if it is credible, positive, and constitutes proof beyond reasonable doubt that the latter is guilty. [19] In this case, the trial court relied primarily on the positive identification made by Ronaldo Narez in convicting accused-appellant. The trial court ruled:

The Court after a perusal of the testimonies of these witnesses for the prosecution, and the defense, is more inclined to believe the former. Accused Ernesto Ebias alias Boy Marantal and his companion whose name remains unknown, and is still at-large, were positively identified by Ronaldo Narez to be the person who shot them. He could not be mistaken. The incident happened at more or less 12:00 o'clock noon of July 8, 1994. The distance of accused from the victims is about fifteen (15) meters only.

The defense was not able to overthrow the testimonies of the prosecution, which was straightforward, convincing as to leave no space for doubt. Accused w[as] positively identified to be the author of the crime. It is a well settled rule that greater weight is given to the positive identification of accused by prosecution witness. (Peo. vs. Canada, G.R. No. 65728, Sept. 15, 1986 (144 SCRA 121)

Defense's negative evidence cannot outweigh prosecution witnesses' testimony on affirmative matters. At best, his denial is a self-serving negative evidence that can not be given greater weight than the declaration of credible witnesses who testified on affirmative matters. (People of the Philippines vs. Ramir Carizo, et. al., G.R. No. 96510, July 6, 1994) [20]

To be sure, Ronaldo Narez remained steadfast and unshaken in his testimony that it was accused-appellant whom he saw shoot him and his cousin. However, questions arise regarding the circumstances surrounding the identification made by Ronaldo Narez of accused-appellant as the person who shot him and his cousin resulting in the latter's death.

First, Ronaldo Narez identified the person who shot them as Boy Marantal. But it was not established how he came to know him by that particular name. In both his affidavit and his testimony, Ronaldo quoted the assailant's companion as telling the latter, "Boy, tirahin mo na." [21] Obviously, the surname Marantal did not come from the unidentified companion. Ronaldo Narez stated in his affidavit that he knew accused-appellant's name to be Boy Marantal. He said:

7.)

: Paano mo nalaman na Boy Marantal and pangalan nitong bumaril sa inyo?

: Dahil po sa iyon po ang aking pagkakilala sa kanya na aking natandaan.

8.)

: Ito bang si Boy Marantal na ito ay matagal mo nang nakilala?

: Hindi ko po siya masyadong kilala pero isang beses ko na siyang nakita at ang pangalawa ay nang kami ay barilin." [22]

How Ronaldo came to know accused-appellant's alias to be Boy Marantal has not been shown. When questioned on cross-examination, Ronaldo Narez testified:

Q

You do not know the full name of Ernesto Ebias according to you before the incident?

A

Not yet, mam.

Q

But you know a certain Boy Marantal?

A

Yes, mam.

Q

Who is that Boy Marantal?

A

One and the same person Ernesto Ebias.

Q

Presumably Ernesto Ebias is more popular in your locality as alias Boy Marantal?

A

Yes, sir.[23]

Indeed, it appears from his affidavit executed on August 16, 1994 that it was only later when he learned from the police that the real name of Boy Marantal was Ernesto Ebias. This raises the suspicion that Narez was influenced by matters other than his own personal perception in identifying Ebias as the person who had shot them.

While Ronaldo Narez insisted that accused-appellant was known by the alias of Boy Marantal, no other witness was presented by the prosecution to corroborate his testimony that accused-appellant was known in their locality by that name. To the contrary, Santiago Narez, a prosecution witness, testified that accused-appellant was known by the nickname or alias Estoy.[24]

Second. Accused-appellant had been a long time resident of Barangay Dambo, Pangil, Laguna before the incident.[25] In fact, Ronaldo Narez testified that he knew accused-appellant personally because the latter was a family friend who would sometimes visit their house.[26] Yet, in the affidavit he executed before the police on July 11, 1994, he stated that he was not familiar with the person who shot them because he only saw the latter once before the incident.[27]

It is settled that the prosecution bears the burden not only of proving beyond reasonable doubt that a crime has been committed but also the identity of the person or persons who should be held responsible therefor.[28] The identification of the culprit by an eyewitness must thus be examined with caution to determine whether it fulfills the standard of proof beyond reasonable doubt. There seems to be no reason why eyewitness Ronaldo Narez should fail to recognize accused-appellant as the person who shot them considering that the crime was committed in broad daylight and the latter was a neighbor who was even considered as a family friend. In a similar case, the credibility of the eyewitness was considered diminished by the fact that she remained silent as to the identity of the perpetrator during the initial investigation of the crime and inexplicably failed to state why she remained so if she truly knew who the culprit was.[29]

Third. Ronaldo Narez said in his second affidavit (Exhibit F):

3

: Kailan mo naman nakita o nakilala ang taong iyong sinasabi na bumaril sa inyo, kung iyong tanda?

: Noong pong petsa 15 ng Agosto, 1994, humigit kumulang sa oras alas 7:00 ng gabi sa Brgy. Dambo, Pangil, Laguna.

4

: Ano naman ang pangalan ng bumaril sa inyo, kung iyong nakikilala at iyong nakita?

: Napagalaman ko na lamang po dito sa Himpilan ng Pulisiya ng Pangil, Laguna na ang pangalan ay si Ernesto Ibeas na naninirahan sa Brgy. Dambo, Pangil, Laguna.

5

: Bakit mo naman ngayon lamang itinuro ang bumaril sa inyo, sa anong dahilan?

: Dahilan po na ngayon ko po lamang nakita ang taong bumaril sa amin.

6

: Bakit mo naman ngayon lamang nakita?

: Sa dahilan po na ako po ay nagtigil sa San Pablo City at nang ako po ay umuwi sa Brgy. Dambo, Pangil, Laguna ay doon ko po nakita ang bumaril sa amin.

7

: Ano naman ang ginawa mo nang iyong makita at makilala ang taong bumaril sa inyo?

: Nang aking pong makita ang taong bumaril sa amin ay aking pong ipinaalam sa Hepe ng Brgy. Tanod na si Jose de Guia.

8

: Inuulit ko sa iyo, may taong nandito sa aming Himpilan ng Pulisiya ng Pangil, Laguna, ito ba ang iyong nakikilala?

: Iyan pong taong iyan ang bumaril sa amin (Witness identified the person of ERNESTO EBIAS residing at Brgy. Dambo, Pangil, Laguna).[30]

It would thus seem that accused-appellant was the only person shown to Ronaldo Narez for identification. We have set our face against such procedure. The identification of the accused during a "show-up" or where the suspect alone is brought face to face with the witness for identification is highly suggestive.[31] For confronted with a single suspect, an eyewitness would most likely yield to police pressure to identify the suspect as the perpetrator of the crime, substituting fancy for fact, suspicion for guilt. We cannot with certainty say that such is not the case here. This on the one hand.

On the other hand, we cannot say that Ronaldo Narez was mistaken in identifying accused-appellant as the person who shot him and his cousin. After all, he never deviated from his testimony that he saw accused-appellant when the latter shot them. The crime was committed at noontime with the shooter a mere fifteen meters away from his victims. Ronaldo Narez was thus able to see his attacker in full view. We cannot, therefore, discount Ronaldo Narez's positive identification of accused-appellant as the person who shot him and his cousin.

There is thus a need for a new trial in order to determine the veracity of Ronaldo Narez's positive identification vis-à-vis the alleged confession made by Leonardo Eliseo since no less than a life is at stake. We recognize that "[c]ourt litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth." [32] Hence, a liberal interpretation of the rule granting a motion for new trial is called for. [33] We cannot in good conscience convict accused-appellant and impose upon him the death penalty when evidence which would possibly exonerate him may be presented by him in a new trial. Neither can we acquit him on the sole ground that another person confessed to having committed the crime.

In previous cases, we granted the accused's motion for new trial on the basis of affidavits executed either by witnesses or by the perpetrators of the crime as they tend to establish the innocence of the accused. [34] In *People v. Amparado* [35] and *Cuenca v. Court of Appeals*, [36] affidavits confessing to the actual commission of the crime were executed by the supposed culprits. The Court remanded the cases to the trial court because of the possibility that, should the affidavits be proven true, the conviction of the accused could be reversed or at least modified. As has been said, the overriding need to render justice demands that an accused be granted all possible legal means to prove his innocence of a crime of which he is charged. [37]

On the other hand, we cannot discount the possibility that the confession by Leonardo Eliseo is a last-ditch effort by accused-appellant to avoid the death penalty. For this reason, this case should be reopened only for the purpose of allowing the defense to present the testimony of Leonardo Eliseo and for the prosecution to present any rebutting evidence which it may desire to present.

WHEREFORE, without vacating the judgment of the Regional Trial Court, Branch 33, at Siniloan, Laguna, this case is REMANDED to the Regional Trial Court, Branch 276, of Muntinlupa City for the purpose of allowing the presentation of the testimony of Leonardo Eliseo and any evidence which the prosecution may wish to present to rebut such testimony. In accordance with Rule 121, §6 of the Rules of Criminal Procedure, evidence already in the record shall stand and the new evidence shall be taken into account by the trial court and considered with evidence already in the record and, thereafter, judgment should be rendered accordingly.

SO ORDERED.

Davide, Jr., CJ., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

[1] Records, p. 39.

[2] TSN, pp. 15-23, February 13, 1995.

[3] Exh C.

[4] Exh. B.

[5] Exh. F.

[6] TSN, pp. 14-15, February 13, 1995.

[7] Id., p. 19.

[8] TSN, pp. 4-5, June 27, 1995.

[9] Id., p. 13.

- [10] TSN, p. 4, July 6, 1995.
- [11] Decision, pp. 18-19; Records, pp. 95-96.
- [12] Rollo, pp. 104-105.
- [13] Id., pp. 123-124.
- [14] Id., p. 216.
- [15] Id., pp. 242-243.
- [16] Id., pp. 244-245.
- [17] Rule 121, §2; People vs. Tirona, 300 SCRA 431, 440 (1998).
- [18] Comment, p. 12.
- [19] De la Torre v. Court of Appeals, 294 SCRA 196 (1998).
- [20] Decision, p. 14; Records, p. 99.
- [21] Exh. B; TSN, p.17, February 13, 1995.
- [22] Exh. B.
- [23] TSN, pp. 28-29, February 13, 1995.
- [24] TSN, p. 6, May 29, 1995.
- [25] TSN, p. 9, May 29, 1995.
- [26] TSN, pp. 10-11, February 13, 1995.
- [27] Exh. B.
- [28] People vs. Niño, 290 SCRA 155 (1998).
- [29] Id.
- [30] Exh. F.
- [31] People v. Meneses, 288 SCRA 95 (1998), citing Tuason v. Court of Appeals, 311 Phil. 812 (1995).
- [32] People v. Del Mundo, 262 SCRA 266, 273 (1996).
- [33] Id.
- [34] Helmuth, Jr. v. People, 112 SCRA 573 (1982); People v. Amparado, 156 SCRA 712 (1987); Cuenca v. Court of Appeals, 321 Phil. 64 (1995).
- [35] Supra.
- [36] Supra.
- [37] People v. Del Mundo, supra. See also Jose v. Court of Appeals, 70 SCRA 257 (1976).

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