

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHRISTOPHER GEGUIRA Y OBIA, JUANITO CARIÑO Y NALDOZA AND
RICARDO PEÑAFLOR Y SEVILLANA, ACCUSED-APPELLANTS.**

G.R. No. 130769. March 13, 2000

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-130769/>

KAPUNAN, J.:

Before us is an appeal from the Decision of the Regional Trial Court (RTC) of Quezon City, Branch 98, dated 30 May 1997, wherein accused-appellants were convicted of the crime of murder and sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of their victim in the amount of Fifty Thousand Pesos (P50,000.00).

On 12 October 1993, Christopher Geguirra and Juanito Carino were charged with the crime of murder before the aforementioned RTC under Criminal Case No. Q-93-49688. The information reads:

The undersigned accuses CHRISTOPHER GEGUIRA Y OBIA, and JUANITO CARINO Y NALDOZA, of the crime of MURDER, committed as follows:

That on or about the 5th day of October 1993, in Quezon City, Philippines, the above named accused, conspiring, confederating and mutually helping with other persons, whose true names and whereabouts have not as yet been ascertained, with intent to kill and without any justifiable cause, did then and there, willfully, unlawfully and feloniously with intent to kill, qualified by evident premeditation, and treachery, assault, attack and employ personal violence upon the person of one [P]ARMINDER SIGNH, by then and there stabbing him with a bladed weapon on the chest and striking (sic) his head with a bottle of Ginebra San Miguel, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of [P]ARMINDER SIGNH.

CONTRARY TO LAW.[1]

Upon being arraigned on 23 November 1993, Geguirra and Carino, assisted by counsel de officio, Atty. Agustin Benzon of the Public Attorney's Office, pleaded "not guilty" to the offense charged.[2]

On 10 March 1994, the third accused-appellant, Ricardo Peñaflor, was arrested by the police. Because of this development, Assistant City Prosecutor Lydia A. Navarro filed, on 15 March 1994, a Motion to Admit Amended Information with the trial court wherein Peñaflor was included as a co-accused.[3] On the same day, the trial court issued an order admitting the amended information.[4] On 5 April 1994, Peñaflor, assisted likewise by Atty. Agustin Benzon, was arraigned and pleaded "not guilty" to the offense charged.[5]

The first witness for the prosecution was Surjit Singh, an Indian national who was the uncle of the victim.[6] This witness testified on four separate dates[7] since the trial court, as well as both counsels for the prosecution and defense, found it difficult to understand his testimony due to the fact that he primarily communicated via the Hindi language and knows very little Filipino and English. This problem was compounded with the difficulty of

finding a competent interpreter. The first time he took the witness stand, his direct testimony was discontinued because the Hindi interpreter, who was only a high school graduate, was not translating the witness's testimony properly.[8] However, on the following scheduled date for the continuation of his direct testimony, the prosecution was already able to obtain the services of a knowledgeable Hindi interpreter who had stayed in the Philippines since 1978 and finished an English-taught master's in political science degree from the Punjab University in India.[9]

Surjit Singh testified that he is engaged in the buy and sell business.[10] In this line of work, he purchases shirts, pants and towels which he then sells on installment, at a premium, to his clients in their residences or places of work.[11] On 5 October 1993, his nephew, Parminder Singh, accompanied him in collecting from six (6) of his clients in the area of Congressional Ave. corner Abra St. in Quezon City.[12] The victim rode at the back of his motorcycle in going to the said place.[13] His first stop between 5:00 and 6:00 o'clock in the afternoon was in a store where he was supposed to collect the payment of a certain person named Bobby.[14] When they approached the store, he noticed that there were five (5) to six (6) persons, among them the three accused-appellants, having a drinking session in front of the store.[15] He frequently saw this group before, drinking in the same store.[16] When the group saw them, they all stood up and approached him and his nephew.[17] At this point in time, his nephew was walking behind him.[18] He was then asked by the group to join them in their drinking session.[19] He declined[20] and, instead, he offered to give them thirty pesos to buy more drinks.[21] The group refused to accept the money, saying that if he cannot drink, he should let his companion drink.[22] He said that his nephew was too young to have a drink.[23] He then warned his nephew that something wrong might happen because the group was drunk.[24] He told his nephew to run to save himself but the latter did not heed his advice. His nephew instead urged him that he (Surjit Singh) be the one to escape.[25] Sensing real danger, his nephew then pulled him back to shield him, thus, exposing the victim directly in front of the group.[26] At this juncture, Cariño drew a knife while the other two accused-appellants, Geguirra and Peñaflor, held the arms of the victim.[27] Cariño then plunged the bladed weapon into the victim, piercing the left portion of his chest.[28] Cariño repeated the attack by stabbing the victim at the left portion of his chest.[29] Peñaflor, on his part, hit the victim on the head with a bottle.[30] Fearing for his life, Surjit Singh then ran towards the nearby police station[31] located at the corner of Congressional Ave. and Epifanio de los Santos Avenue (EDSA).[32] Upon nearing the police station. The witness looked back towards his nephew. He saw the victim running away from his attackers and towards the police station.[33] However, after running for about forty (40) to fifty (50) yards, the victim fell down.[34] The victim was only five (5) to ten (10) yards away from the station when he collapsed.[35] When the lone police officer at the outpost stepped out to investigate, the commotion was all over and the victim was already lying unconscious on the ground.[36] Surjit Singh boarded his nephew on a passing jeepney and brought him to the emergency room of the Quezon City General Hospital.[37] Unfortunately, the victim died a few hours later due to the gravity of his wounds.[38] In the afternoon of 6 October 1993, the witness went to the police station to report the death of the victim.[39] While in the station, he saw that Geguirra was already apprehended by the police.[40] He then executed a statement before the police. Thereafter, he went to the Quezon City Prosecutor's Office where he had the statement sworn to.[41]

The second and last witness for the prosecution was Dr. Ludovino Lagat, a medico-legal Officer of the National Bureau of Investigation.[42] He testified that he autopsied the cadaver of the victim on 6 October 1993 at around 2:30 p.m. at Rey's Funeral Parlor.[43] He noted that the victim suffered two fatal stab wounds[44] on the left portion of the chest, both of which punctured the heart.[45] The entry point of one of the stab wounds measured 2.0 centimeters while the other measured 2.5 centimeters. He also noted that the victim had an incise wound on his left wrist.[46] In this regard, he issued an autopsy report which reads:

POSTMORTEM FINDINGS

Pallor, generalized.

Incision, 17.0 cms., anterior chest wall, left side, transverse; 2.0 cms., anterior axillary line, 2.0 cms., left wrist, lateral.

STAB WOUND:

- 2.0 cms., clean-cut edges, with a blunt superior and sharp inferior extremities, almost horizontally oriented, located at the anterior chest wall, left side, 7.0 cms., from the anterior median line, directed backwards, upwards and laterally, involving the soft tissues, cutting the cartilage of the 4th rib, and entering the left thoracic cavity, perforating the pericardial sac and then to apex of the heart, with a depth of 12.0 cms.

- 2.5 cms., clean-cut edges, elliptical, with a blunt superior and sharp inferior extremities, almost horizontally oriented, located at the anterior chest wall, left side, 15.0 cms., from the anterior median line, directed backwards, upwards and medially, involving the soft tissues, then entering the left thoracic cavity, then perforating the left ventricle of the heart, with a depth of 11.5 cms.

Visceral organs pale

Stomach, 1/2 amount of liquid.

CAUSE OF DEATH: STAB WOUNDS, CHEST.[47]

Based on the above findings, he concluded that the assailant stood in front of the victim, at an arm's length distance, when the stabs were delivered.[48] He also stated that the assailant used a sharp bladed weapon on the victim.[49] However, he clarified that there might have been two bladed weapons since the stab wounds measured differently in width.[50] He also stated that the first stab wound may have already been sufficient to kill the victim thereby rendering the second stab wound unnecessary.[51] With regard to the incise wound on the victim's left wrist, he said that it might have been caused by the victim's attempt to parry the thrusts of the assailant.[52] When questioned with regard to Surjit Singh's claim that the victim was hit on the forehead with a bottle, he said that there was no finding of any wound in the victim's forehead.[53]

After the prosecution rested its case, the defense presented Rolando del Rosario as its first witness. He testified that he lives at No. 50 Abra St., Bago-Bantay, Quezon City and works as an umbrella repairman.[54] On 5 October 1993, between five and six o' clock in the afternoon, he was near the scene of the crime since he was on his way home.[55] However, he later on corrected himself and said that he was on his way home at around 4:30 p.m.[56] While walking towards his home in Abra St., he noticed, from a distance of 30 meters,[57] a commotion going on in the said street.[58] He then crossed Congressional Ave. and noticed an Indian national, whom he later on identified as Surjit Singh, hurrying to cross the said avenue.[59] He was familiar with the face of Surjit Singh since he had seen him before in Abra St. collecting from the said Indian's clients.[60] After crossing Congressional Ave., Surjit Singh then went to the aid of another Indian national who was already bloodied and unconscious.[61] He followed Surjit Singh and was only an arm's length away while the latter was assisting his fellow Indian.[62] Surjit Singh then ran towards the nearby police station to seek help.[63] Thereafter, Surjit Singh carried the unconscious Indian national towards a jeep.[64] On cross-examination, he admitted that one of the accused-appellants, Cariño, was his neighbor whom he has known for a long time.[65] He also admitted that the mother of Carino went to him and requested that he testify in behalf of her son.[66]

The defense then presented Asteria Cariño as its second witness. She testified that she is the mother of accused-appellant Cariño, lives in 54-C Abra St., Bago-Bantay, Quezon City and makes a living out of repairing umbrellas.[67] On 5 October 1993, she was in their house together with her son.[68] She was then washing umbrellas while her son slept for the most part of the day.[69] She noticed that her son slept in the morning, woke

up at lunch, slept again after taking the said meal and woke up in the evening to watch television.[70] From October 5 to October 6, her son, who makes a living from selling cigarettes at the corner of Project 7 and Corregidor St., did not and could not leave their house since it was raining hard for two (2) consecutive days.[71] Her son only left their house on 7 October 1993 to watch a movie when the heavy rains had already stopped.[72] To buttress her claim that it was raining hard from 5 to 6 October, she obtained a certification to this effect from the Philippine Atmospheric Geophysical Astronomic Services Administration (PAGASA).[73] The authenticity of the PAGASA report was stipulated upon by the counsels of both parties.[74] She only learned that her son had a criminal case when she was informed that he was arrested on 7 October 1993.[75]

The third witness for the defense was Monica Figuerroa. She testified that she is a neighbor of Cariño[76] and that she resides in No. 52 Abra Street, Bago-Bantay, Quezon City.[77] On 5 October 1993, between four and five in the afternoon, she was at the corner of Congressional Ave. and Abra St. selling umbrellas.[78] While going about her business, she noticed that on the opposite side of the street, less than 30 meters away from where she was, someone was stabbed.[79] She saw only one person stab the victim and the said assailant ran away and passed in front of her.[80] She characterized the person who was stabbed as an Indian national.[81] When asked if the person who stabbed the victim was any one among the accused, she answered in the negative.[82] After being stabbed, the victim ran towards the police station nearby but he was unable to reach the same because he already fell to the ground.[83] She then approached the fallen victim to join the other onlookers.[84] Another Indian national then came along, hailed a jeep and boarded the victim into the said vehicle.[85] The following day, she went to the house of the Cariño's to relate to Asteria Cariño what she witnessed.[86] She noted that during her visit, accused-appellant Cariño was in their house.[87] Upon being prodded on when she learned that she was going to testify for the defense, she said that she was only informed of this matter a few days prior to the scheduled hearing. She explained that prior to her testimony, she was never requested by the mother of Cariño to testify in her son's behalf.[88] However, during the latter part of her testimony, she contradicted what she said and stated that she had been previously requested by the Cariño's to testify but she initially refused since she was afraid to do the same.[89]

The fourth witness for the defense was accused-appellant Cariño. He testified that, prior to his detention, he used to be a cigarette vendor plying his trade in that portion of EDSA near Project 7.[90] On 5 October 1993, he stayed in their house for the whole day and did not sell cigarettes because there was a storm.[91] On the said day, he slept after taking his lunch and was awakened by his brother at around 6:30 p.m.[92] The following day, 6 October 1993, he still stayed at home since the storm was still raging.[93] He only left their house on 7 October to watch a movie since the weather had already cleared.[94] While watching a movie in the theater of ShoeMart West Ave., he was arrested by the police and informed that he was being accused of killing an Indian national.[95] He was then brought to the Baler Police Station where he was detained.[96] He stated that he does not know Parminder Singh and that it was only while in detention that he first saw Surjit Singh.[97] Upon being asked with regard to the distance of his house to the scene of the crime, he estimated the same to be less than a kilometer.[98]

The fifth witness for the defense was Aurora Prudencio, a fruit vendor who resides at Project 8, Quezon City.[99] She personally knows accused-appellant Cariño, whom she calls John-john, while she only knows the other accused-appellants by face.[100] On 5 October 1993, she was selling fruits in front of the bowling center which is located near the scene of the crime.[101] It was then raining very hard and the streets were flooded.[102] In the afternoon of the said day, she witnessed the stabbing of the victim.[103] She recounted that prior to the said incident, two (2) Indian nationals arrived on board a motorcycle and stopped at the corner of Congressional Ave. and Abra St.[104] She recognized one of the Indian nationals, Surjit Singh, since he frequently went to the said place collecting payments from his clients.[105] After the two Indian nationals dismounted from their motorcycle,

a commotion occurred and one of the Indians was stabbed.[106] When asked if the assailant was present in the courtroom, she responded in the negative.[107]

The sixth witness for the defense was accused-appellant Geguira. He testified that prior to his arrest, he sold pineapples for a living at the corner of Abra St.[108] On 6 October 1993, he was arrested by the police in his house at No. 3, Abra St., Bago Bantay, Quezon City.[109] He was then brought to the Munoz Police Station where he was shown a list of names and asked if he knew any of those listed therein.[110] He said he did not.[111] Thereafter, he was brought to the Baler Police Station where he was then shown pictures of persons sought by the police.[112] He was asked if he knew any of them and, again, he responded in the negative.[113] He was then told that he was being made accountable for a killing incident and he was persuaded to stay in the precinct's prison cell[114] where twelve other inmates were detained.[115] Surjit Singh then arrived and was led by the police towards the detention cell.[116] Surjit Singh pointed towards five other inmates inside the detention cell.[117] Thereafter, the police officer engaged Surjit Singh in a conversation.[118] After their conversation, Surjit Singh then pointed towards him, thereby implicating him as a suspect in the killing of Parminder Singh.

The last and final witness for the defense was accused-appellant Peñaflor. He testified that he was a construction helper who worked in various projects.[119] During the months of September and October 1993, he worked in a project in Malolos, Bulacan.[120] Thereafter in November, he worked in another project in Marikina.[121] In February of 1994, he then worked in a project in Project 6, Quezon City.[122] On 10 March 1994, he was arrested by the police in his house in San Jose St., Project 8, Quezon City.[123] He was told by the police that he was going to be brought to the precinct for an investigation with regard to a robbery that occurred in their area on the same day.[124] Three days after his arrest, Surjit Singh arrived in the precinct.[125] He was then instructed to stand and approach the cell bars.[126] Thereafter, Surjit Singh and the police officer left.[127] When asked if he knew his co-accused, he answered no.[128]

In its Decision, dated 30 May 1997, the trial court ruled out the existence of evident premeditation but appreciated the qualifying circumstance of treachery and convicted the three accused-appellants of the crime of murder. The dispositive portion of the decision reads:

WHEREFORE, the Court hereby finds the accused Juanito Cariño y Naldoza, Christopher Geguira y Obia and Ricardo Peñaflor y Sevellina all guilty beyond a reasonable doubt, as principals of the crime of MURDER, defined and penalized in Art. 148 of the Revised Penal Code; there being no aggravating circumstances, nor mitigating circumstance attendant thereto, hereby sentences each of the said accused to a penalty of Reclusion Perpetua with the accessories provided for by the law. The three (3) accused are also directed to indemnity (sic) the heirs of [P]arminder Singh in the amount of Fifty Thousand (P50,000.00) Pesos, with each of them paying one third (1/3) of the said sum to the heirs concerned.

SO ORDERED.[129]

Hence, the present appeal where accused-appellants assign the lone error, namely, that the trial court erred in convicting them of murder despite the failure of the prosecution to prove their guilt beyond reasonable doubt.[130]

Accused-appellants argue that in convicting them, the trial court relied primarily on the testimony of Surjit Singh which was allegedly riddled with contradictions and inaccuracies; hence, their guilt was not proven beyond reasonable doubt because the said witness' testimony was riddled with contradictions and inaccuracies.[131]

Accused-appellants point out that the first time Surjit Singh took the witness stand on 5 April 1994, he said that the victim actually partook of the drinks offered, that there were two persons who wielded knives and that accused-appellants Cariño and Peñaflor stabbed the victim. However, the succeeding times he took the witness

stand, he changed his testimony and stated that the victim did not accept the drink, that only one person wielded a knife and that only Cariño stabbed the victim.

We do not agree. The flaws in Surjit Singh's testimony are easily explained by the fact that the said witness primarily spoke Hindi and knows very little Filipino and English. The contradictions in his testimony are mostly with regard to the statements he made the first time he took the witness stand and those made on the second, third and fourth times he took the witness stand. As previously mentioned, the interpreter of the trial court during the first time Surjit Singh testified was not competent since the said interpreter is only a high school graduate and does not have a good grasp of the English language. The parties and the court noticed that his translations into English of what the witness said in Hindi were inaccurate. However, on the second, third and fourth times that Surjit Singh testified, the interpreter was already changed to one who is knowledgeable in the English language. As pointed out by the Solicitor General:

The discrepancies can readily be explained. It must be remembered that Surjit Singh as an Indian national who spoke very little English. In fact, his testimony had to be interpreted into English from its original Hindi. During the course of Surjit's testimony on April 5, 1994, the parties and the court noticed that Nirmal Singh, the interpreter, was not accurately translating the same. The defense counsel objected to the translation being made by Nirmal Singh pointing out the fact that he could hardly decipher what the interpreter had been saying "for almost an hour." The parties thus agreed to discontinue the hearing until such time that an official interpreter from the Indian embassy could be produced.[132]

In fact, the interpretation of Nirmal Singh was so unreliable that the prosecution had to repeat most of the questions propounded to Surjit Singh all over again the second time he took the witness stand.

Accused-appellants also call our attention to the fact that the testimony of Surjit Singh contradicted the autopsy report of another witness, Dr. Ludovino Lagat, the medico-legal officer of the National Bureau of Investigation. They assert that Surjit Singh's testimony is not credible because the second time he took the witness stand, he said that Peñaflor hit the victim with a bottle in the forehead but, later on, he recanted and said that it was actually Geguira who hit the victim. These contradictions, according to accused-appellants, are worsened by the fact that the autopsy report does not mention that the victim had bruises or contusions on the forehead.

We are not persuaded. That either Peñaflor or Geguira took hold of a bottle and struck the victim with it is not difficult to believe. The overpowering fright instilled in the witness' mind by the startling events must have affected his ability to observe what he saw in minutest details. Whether it was one or the other who struck the victim with a bottle does not affect the witness' credibility. It is also possible that the mark of the bottle on the victim's head was not discernible or the blow could have hit another part of the victim's body but the witness mistakenly thought that the impact was on the head. The inconsistencies pointed out by accused-appellants refer only to minor details which cannot affect the credibility of the witness and the reliability of his other statements. In the case of *People vs. Resagaya*,[133] we said:

That there are inconsistencies, even improbabilities, in the testimony of a witness, especially on minor details or collateral matters is a common phenomenon. That the accounts of witnesses regarding the same occurrence are contradictory on certain details is not unusual. There is no perfect or omniscient witness because there is no person with perfect faculties or senses. An adroit cross-examiner may trap a witness into making statements contradicting his testimony on direct examination. By intensive cross-examination on points not anticipated by a witness and his lawyer, a witness may be inveigled into making statements that do not dovetail with the testimonies of other witnesses on the same points.

Yet, if it appears that the witness has not willfully perverted the truth, as may be gleaned from the tenor of his testimony and as concluded by the trial judge from his demeanor and behavior on the witness stand, his

credibility on material points may be accepted.

"If witnesses should agree as to every detail of a transaction which occupied a considerable space of time, and should undertake to tell all that occurred in precisely the same order, each giving the same incidents as the others in precisely the same words, that fact would be of itself a suspicious circumstance" (Rumsey, J., Matter of Seagrist, 1 N. Y. App. Div., 615, 617, 37 N. Y. Supp. 496, 497, cited in 6 Moran, Comments on the Rules of Court, 1970 Ed., p. 141).[134]

Accused-appellants also make much of the alleged inconsistencies between the statements made by Surjit Singh in his affidavit before the police and those he made while he was on the witness stand. They contend that while Surjit Singh stated before the police that Peñaflor was the one who drew a knife, he testified in court that it was Cariño who did it. Again, this inconsistency can easily be explained by Surjit Singh's inability to communicate his statements properly due to language barrier. Moreover, affidavits are not entirely reliable evidence in court due to the inaccuracies that may have occurred in the formulation of the same.[135] In the Resagaya case,[136] we extensively discussed why affidavits are not that dependable:

Much importance cannot be attached to that discrepancy because, as has been truthfully observed, the infirmity of affidavit evidence is a matter of judicial experience. Since, generally, an affidavit is not prepared by the affiant himself, but by another who uses his own language in writing the affiant's statements, omissions and misunderstandings by the writer are not infrequent particularly under the circumstances of hurry and impatience. (People vs. Mariquina, 84 Phil. 39, 42).

An affidavit, "being taken ex parte, is almost always incomplete and often inaccurate, sometimes from partial suggestion, and sometimes from want of suggestion and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that belongs to the subject." (People vs. Alcantara, L-26867, June 30, 1970, 33 SCRA 812, 820).

"We have too much experience of the great infirmity of affidavit evidence. When the witness is illiterate and ignorant, the language presented to the court is not his; it is, and must be, the language of the person who prepares the affidavit; and it may be, and too often is, the expression of that person's erroneous inference as to the meaning of the language used by the witness himself; and however carefully the affidavit may be read over to the witness, he may not understand what is said in language so different from that which he is accustomed to use. Having expressed his meaning in his own language, and finding it translated by a person on whom he relies, into language not his own, and which he does not perfectly understand, he is too apt to acquiesce; and testimony not intended by him is brought before the court as his." (2 Moore on Facts, sec. 952, p. 1105; People vs. Timbang, 74 Phil. 295, 299).[137]

Accused-appellants also contend that Surjit Singh's testimony that there were five (5) to six (6) persons drinking outside the store cannot be true since there was a storm on that day as shown by the certification of PAGASA. Suffice it to state that, even assuming *arguendo* that there was indeed a heavy downpour on that day, the bad weather condition did not necessarily negate the possibility that persons were having a drink outside the store as the rain at that particular time could have stopped. Simply put, this line of argument is non sequitur. Moreover, even the defense's own witness, Aurora Prudencio, testified that there were people drinking in the store when the commotion occurred.[138]

We now come to accused-appellants' defense of alibi. Cariño claims that he could not have possibly killed Parminder Singh since he stayed in their house and did not leave the same from 5 October until 6 October 1993. He explains that bad weather prevented him from leaving their house for two consecutive days. On the other hand, Peñaflor asserts that he was in Malolos, Bulacan working as a construction helper at that time the incident took place. He further avers that his inclusion in the information was due to the fact that he was mistakenly identified

by Surjit Singh upon instigation of a police officer in the precinct where he was detained.

Time and again, the Court has declared that alibi is an inherently weak defense.[139] Unless an accused can prove that he was in another place where it would be physically impossible for him to have been at the scene of the crime at the time it was committed, the positive identification made by a witness will prevail over his defense of alibi.[140] In the present case, it was not physically impossible for accused-appellants to be at the scene of the crime. With regard to Cariño, his house is only less than a kilometer away from the scene of the crime. On the other hand, Geguirra did not show adequate proof, except for his own testimony, that he was indeed in Malolos, Bulacan at the time the incident took place. Moreover, it is not physically impossible for him to have been at the scene of the crime at the time it was committed. The said area is relatively near the North Luzon Expressway which is the route taken by those coming from the central and northern Luzon provinces like Bulacan.

We cannot, likewise, give credence to Geguirra and Peñaflor's defense that they were mistakenly identified by Surjit Singh. He was only an arm's length from where his nephew was assaulted. Geguirra and Peñaflor have not shown any improper motive on the part of Surjit Singh to lie and impute to them such a grave felony, unless the same really took place. By lying, he would only allow the real malefactor who killed his nephew to go scot-free. Human experience tells us that a person, in the absence of a showing of any ill-motive, would not impute a grave crime upon another unless the same is true.[141] In the case of *People vs. Antud*,[142] we said:

The Court finds no reason to depart from the foregoing rule. Appellant was positively identified by eyewitnesses who were just at arm's length from the victim. No dubious or evil motive whatsoever has been proved which would cause or impel them to falsely testify against appellant. It is much a matter of judicial acceptance that witnesses would not falsely impute to an accused a serious criminal offense if it is not the untarnished truth.[143]

Also, as testified upon by Surjit Singh and corroborated by defense witnesses Rolando del Rosario and Aurora Prudencio, Surjit Singh was a frequent visitor in the area where the crime was committed. As such, the declaration of Surjit Singh that he had frequently seen accused-appellants drinking in the same store prior to the incident is believable. All these circumstances negate the possibility that Geguirra and Peñaflor were mistakenly identified by the eyewitness.

The testimony of Surjit Singh, standing alone, clearly point to accused-appellants' guilt. The testimonies of the defense witnesses were not able to overcome the positive identification of accused-appellants by Surjit Singh. On the other hand, the credibility of the witnesses for the defense is highly questionable. They are biased and not disinterested witnesses. Rolando del Rosario and Monica Figuerroa are neighbors of Cariño and Peñaflor. Asteria Cariño is the mother of Christopher Cariño. Aurora Prudencio personally knows Cariño and lives in the same area as Geguirra in Prject 8, Quezon City.

With regard to the allegation of conspiracy, this is established by the evidence on record. Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[144] The existence of conspiracy does not require that an appreciable length of time elapse from the moment that there has been an agreement up to the time of the actual occurrence.[145] It exists if, at the time of the commission of the felony, the accused were of the same purpose and united in its execution.[146] Direct proof of the previous agreement of the accused to commit the crime is not necessary.[147] Proof of the conspiracy may be inferred from the proven conduct of the accused, at the time of the commission of the felony, disclosing a common understanding among them for the perpetration of the offense.[148]

In the present case, the testimony of the prosecution's sole eyewitness, Surjit Singh, clearly established that conspiracy existed among accused-appellants in the commission of the offense. Accused-appellants' coordinated

manner of attacking the victim shows their common purpose and interest in executing their unlawful objective. The act of Geguirra and Peñaflor in holding the victim's hands while Cariño stabbed their prey with his bladed weapon proves the existence of conspiracy. Conspiracy having been established, the act of one is the act of all.

Finally, as their last stance, accused-appellants contend that, assuming arguendo, there is enough evidence to hold them accountable for the death of Parminder Singh, the trial court still erred in convicting them of the crime of murder since treachery cannot be appreciated against them. Accused-appellants contend that, as shown by the evidence, the means of killing the victim was not deliberately adopted;^[149] the victim was forewarned by Surjit Singh of the possibility of an impending attack; and, more importantly, the victim was able to put up a defense.^[150]

We agree. A thorough evaluation of the evidence on record reveals that treachery was not present in the killing of the victim. This conclusion is also shared by the OSG. In this regard the OSG aptly observed:

Treachery exists when the offender commits any of the crimes against the (sic) person[s], employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make. To appreciate treachery, two conditions must be present, to wit: (1) the employment of means of execution that give the person attacked no opportunity to defend himself or retaliate; and (2) the means of execution were deliberately or consciously adopted.

While the attack may have been sudden, there is no showing that the means of execution was consciously adopted as the stabbing appears to have been done at the spur of the moment. A killing done at the spur of the moment is not treacherous.

"To establish treachery, the evidence must show that the accused made some preparation to kill the victim in such a manner as to insure the execution of the crime or to make it impossible or hard for the person attacked to defend himself."

Evidence shows that the meeting between the appellant and the victim was casual and the attack done impulsively. Appellants initially accosted the victim and his uncle to get them to join them in their drinking spree. Perhaps rebuffed and insulted, appellant Cariño pulled out a knife. Seeing this, the victim who was standing behind his uncle, pushed the latter behind him and faced the appellants. The victim was thus forewarned of the impending attack and chose to protect his uncle by putting himself between appellant and his uncle instead of retreating to save himself.

"There is no treachery where the victim was forewarned of the grave danger that existed and he was afforded a chance to involve himself in the peril yet, instead of retreating, chose to come to the aid of his brother without any weapon to defend himself."

Moreover, the presence of a wound on the victim's left wrist shows that the victim was able to put up a defense, a circumstance negating treachery.^[151]

The qualifying circumstance of treachery having been ruled out in the commission of the felony, the crime for which accused-appellants should be made accountable must be modified from murder to homicide.

Based on our finding that homicide and not murder was committed, the penalty imposed upon accused-appellants should correspondingly be lowered to reclusion temporal. There being no aggravating or mitigating circumstance, the proper imposable penalty should be reclusion temporal in its medium period. Applying the Indeterminate Sentence Law, the minimum term is anywhere within the range of prision mayor, or from 6 years and 1 day to twelve (12) years, and the maximum within the range of reclusion temporal in its medium period, or from 14 years, 8 months and 1 day to 17 years and 4 months.

WHEREFORE, in view of the foregoing, the Decision appealed from is MODIFIED and accused-appellants are hereby found GUILTY of the crime of HOMICIDE, and sentenced to an indeterminate sentence of 8 years and 1 day of prision mayor medium, as minimum and to 14 years, 8 months and 1 day of reclusion temporal medium, as maximum. The trial court's imposition of P50,000.00 as civil indemnity is AFFIRMED.

SO ORDERED.

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

Pardo, J., on official business abroad.

-
- [1] Records, p. 1.
[2] Id., p. 17.
[3] Id., at p. 46.
[4] Id., at 51.
[5] Id., at 51.
[6] TSN dated 5 April 1994, p. 3.
[7] 5 April 1994, 29 June 1994 30 June 1994 and 30 August 1994.
[8] TSN dated 5 April 1994, pp. 25-30.
[9] TSN dated 29 June 1994, pp. 5-8.
[10] TSN dated 5 April 1994, p. 41.
[11] Id., at 42.
[12] TSN dated 29 June 1994, pp. 12, 42-43.
[13] Id., at 52.
[14] Id., at 43.
[15] Id., at 13.
[16] TSN dated 30 August 1994, p. 8.
[17] Ibid.
[18] Id., at 14.
[19] Id., at 15.
[20] Id.
[21] Id., at 15.
[22] Id.
[23] Id.
[24] Id., at 35.
[25] Id.
[26] Id.
[27] TSN dated 29 June 1994, pp. 17-18.
[28] TSN dated 30 August 1994, p. 15.
[29] Id., at 16.
[30] TSN dated 29 June 1994, pp. 17-18.
[31] TSN dated 30 August 1994, p. 18.
[32] Id., at 19.
[33] TSN dated 30 August 1994, p. 16.
[34] Ibid.
[35] Id., at 17.

- [36] Id., at 24.
- [37] TSN dated 29 June 1994, p. 20.
- [38] Ibid.
- [39] Id., at 20.
- [40] Id.
- [41] Id., at 22.
- [42] TSN dated 25 October 1994, p. 6.
- [43] Id., at 7, 9.
- [44] Id., at 29.
- [45] Id., at 12.
- [46] Id.
- [47] Exhibit "E."
- [48] Id., at 13.
- [49] Id.
- [50] Id., at 30.
- [51] Id., at 32-33.
- [52] Id., at 26-27.
- [53] Id., at 34-35.
- [54] TSN dated 5 January 1995, p. 3.
- [55] Id.
- [56] Id., at 7-8.
- [57] Id., at 14.
- [58] Id., at 3.
- [59] Id., at 4.
- [60] Id.
- [61] Id., at 5.
- [62] Id.
- [63] Id.
- [64] Id., at 6.
- [65] Id., at 7.
- [66] Id., at 9.
- [67] TSN dated 2 March 1995, pp. 4-5.
- [68] Id., at 5.
- [69] Id., at 6.
- [70] Id., at 6-7.
- [71] Id., at 8, 11.
- [72] Id., at 11.
- [73] Id., at 16-18.
- [74] Id., at 43-44.
- [75] Id., at 12.
- [76] TSN dated 8 February 1995, p. 8.
- [77] Id., at 2.
- [78] Id., at 3.
- [79] Id., at 4.
- [80] Id.

- [81] Id., at 5.
- [82] Id.
- [83] Id., at 6.
- [84] Id., at 25-26.
- [85] Id., at 6-7.
- [86] Id., at 26.
- [87] Id., at 27.
- [88] Id., at 8.
- [89] Id., at 31.
- [90] TSN dated 15 June 1995, p. 3.
- [91] Id., at 8.
- [92] Id.
- [93] Id., at 9.
- [94] Id., at 9-10.
- [95] Id., at 4.
- [96] Id., at 7.
- [97] Id., at 21.
- [98] Id., at 18-19.
- [99] TSN dated 28 June 1995, p. 2.
- [100] Id., at 5.
- [101] Id., at 3.
- [102] Id., at 10-11
- [103] Id., at 3.
- [104] Id., at 4.
- [105] Id.
- [106] Id.
- [107] Id.
- [108] TSN dated 29 June 1995, p. 3.
- [109] Ibid
- [110] Id., at 3-4.
- [111] Id., at 4.
- [112] Id.
- [113] Id.
- [114] Id., at 5.
- [115] Id., at 6.
- [116] Id., at 5-6.
- [117] Id., at 6.
- [118] Id., at 6-7.
- [119] TSN dated 12 July 1995, p. 3.
- [120] Id., at 6-7.
- [121] Id., at 5.
- [122] Id., at 4.
- [123] Id., at 7.
- [124] Id., at 17.
- [125] Id., at 11.

- [126] *Id.*, at 11-12.
- [127] *Id.*, at 13.
- [128] *Id.*, at 14-15.
- [129] Decision, Records, pp. 205-206.
- [130] Brief for Accused Appellants, Rollo, p. 70.
- [131] *Ibid.*
- [132] Appellant's Brief, Rollo, p. 117.
- [133] 54 SCRA 350 (1973).
- [134] *Id.*, at 360.
- [135] *Naval vs. Panday*, 275 SCRA 654, 686 (1997); *Salumpong vs. Court of Appeals*, 268 SCRA 764, 772 (1997).
- [136] *Supra.*
- [137] *Id.*, at 358-359.
- [138] TSN dated 28 June 1995, p. 12.
- [139] *People vs. Magbanua*, G.R. No. 128888, 3 December 1999; *People vs. Platilla*, G.R. No. 126123, 9 March 1999.
- [140] *People vs. Daquipil*, 240 SCRA 1995, 330-331 (1995); *People vs. Corpuz*, 240 SCRA 203, 210-211 (1995).
- [141] *People v. Serdan*, 213 SCRA 329, 337 (1992).
- [142] *People vs. Antud*, 215 SCRA 190 (1992).
- [143] *Id.*, at 198-199.
- [144] Article VIII, 2nd Paragraph, REVISED PENAL CODE.
- [145] *People vs. Sequiño*, 264 SCRA 79, 102 (1996).
- [146] *People vs. Galapin*, 293 SCRA 474, 490 (1998); *People vs. Felix*, 297 SCRA 12, 25 (1998).
- [147] *People vs. Tabag*, 268 SCRA 115, 127 (1997).
- [148] *People vs. Villalonez*, 298 SCRA 567, 582 (1998).
- [149] *Id.*, at 75.
- [150] *Id.*, at 73-77.
- [151] Appellee's Brief, Rollo, pp. 122-124.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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