

CONSTANTE SICCUAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 133709. April 28, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari[1] of the Decision[2] rendered by the Court of Appeals on August 26, 1997 and its Resolution dated April 28, 1998 in CA-G.R. CR No. 17996, entitled “People of the Philippines vs. Constanse Siccuan.”

In an Information dated October 28, 1985, the Office of the Provincial Fiscal of Cagayan[3] charged Constanse Siccuan, herein petitioner, with the crime of murder committed as follows:

“That on or about September 4, 1982, in the Municipality of Iguig, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Constanse Siccuan, armed with a gun, with intent to kill, with evident premeditation and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Benjamin de la Cruz, inflicting upon him gunshot wounds on the different parts of his body which caused his death.”

Upon being arraigned on March 21, 1986, petitioner, with the assistance of counsel, pleaded not guilty to the charge. Trial then ensued.

Evidence for the prosecution established the following:

On September 2 to 4, 1982, a team from the Philippine Tobacco Research and Training Center, Mariano Marcos State University, Batac, Ilocos Norte, headed by Benjamin de la Cruz, conducted a training seminar for farm operators at the Cagayan Integrated Agricultural Development Project, Minanga, Iguig, Cagayan.

On the evening of September 4, 1982, a program was held to cap the seminar. At eleven o’clock that night, Benjamin de la Cruz was shot to death. Fidel Udarbe and Dante Claravall witnessed the incident. During the trial, they positively identified petitioner as the malefactor.

Dr. Edmundo Borja, Rural Health Physician of Tuguegarao, Cagayan, conducted a postmortem examination of the victim. His findings are as follows:

“2. Gunshot wound with split hole point of entrance, 0.9 cm. more or less at the left anterior axillary fold; directed posteriorly, upward and to the right with no point of exit.3. Gunshot wound with split hole point of entrance, 2 cm. more or less, at the left anterior axillary fold below the above described gunshot wound, directed posteriorly, upward and to the right with no point of exit.4. Gunshot wound at the left hand between the 1st and 2nd metacarpal bones with point of entrance at the dorsal aspect, oval, 0.6 cm. x 1 cm. more or less, directed posteriorly, upward and to the left with point of exit at the palmar aspect, 0.5 cm x 0.6 cm. more or less.5. Gunshot wound, oval 0.7 cm. more or less, at the mid-epigastric region; directed posteriorly, downward, to the left with point of exit at the postero-lateral aspect of the left lumbar region, 0.6 x 0.9 cm more or less.”[4]

According to Dr. Borja, the cause of the victim's death is "shock due to internal hemorrhage due to gunshot wound." [5] He was 30 years old at the time of his death.

Petitioner was a former member of the Integrated National Police (now Philippine National Police) with the rank of patrolman. At the time of the incident on September 4, 1982, he was assigned to the Regional Security Unit, Regional Command 2, Camp Adduru, Alimanao, Tuguegarao, Cagayan.

After the prosecution had rested its case, the defense, with leave of court, filed a "Demurrer to Evidence with Reservation." The trial court denied the Demurrer and ordered the defense to present its evidence.

Petitioner denied the charge, claiming that a member of the New People's Army (NPA) must have shot the victim considering that in his speech during the program, he "lambasted the NPA." Petitioner declared that at that time, he was outside the building where the seminar was being held and about ten (10) meters away from the spot where de la Cruz was shot. He heard two gunshots, after which the lights went out.

The trial court, in its Decision, found petitioner guilty beyond reasonable doubt of the crime of homicide and imposed upon him the penalty of eight (8) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum. Petitioner was ordered to indemnify the heirs of the victim in the amount of fifty thousand (P50,000.00) pesos.

On appeal, docketed as CA-G.R. CR No. 17996, the Court of Appeals affirmed the trial court's Decision in toto. Petitioner timely filed a motion for reconsideration but it was denied in its Resolution [6] dated April 28, 1998.

Petitioner, in the instant petition, ascribes to the Court of Appeals the following errors:

"I

THE COURT OF APPEALS COMMITTED A FATAL AND REVERSIBLE ERROR, IF NOT GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN AFFIRMING IN TOTO THE LOWER COURT'S ORDER DENYING HEREIN APPELLANT'S DEMURRER TO EVIDENCE ON THE GROUND OF INSUFFICIENCY OF EVIDENCE.

II

THE COURT OF APPEALS GRAVELY ERRED, IF NOT COMMITTED A GRAVE ABUSE OF DISCRETION IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES EVEN IF THE SAME WERE REplete WITH MATERIAL CONTRADICTIONS AND FATAL INCONSISTENCIES WHICH GREATLY AFFECTED THEIR CREDIBILITY AS SUCH WITNESSES.

III

THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR IN AFFIRMING IN TOTO THE LOWER COURT'S RULING CONVICTING HEREIN APPELLANT OF HOMICIDE EVEN AS THE EVIDENCE SO FAR ADDUCED BY THE PROSECUTION DOES NOT WARRANT HIS CONVICTION."

Petitioner argues that while prosecution eyewitnesses Fidel Udarbe and Dante Claravall testified that he shot the victim twice on the day in question, however, the medico-legal report of Dr. Edmundo Borja shows that the victim suffered four (4) gunshot wounds. This discrepancy, petitioner contends, is material and casts doubt on the credibility of Udarbe and Claravall. Moreover, both eyewitnesses, when initially investigated, failed to name him as the culprit. Also, the firearm he allegedly used was never subjected to a ballistics test, nor was he given a paraffin test to determine if indeed he fired the said weapon.

The Solicitor General counters that petitioner's defenses of denial and alibi must fail since he was positively identified by the two prosecution eyewitnesses. Any inaccuracy in their testimonies was caused by the sudden and startling event that occurred. Thus, the trial court and the Court of Appeals did not err in concluding that on the basis of the testimony of the two eyewitnesses, it was petitioner who shot the victim.

We agree with the Solicitor General.

The assigned errors clearly pertain to the credibility of witnesses.

It is a fundamental rule that the Supreme Court's jurisdiction in a petition for review on certiorari as a mode of appeal under Rule 45 of the 1997 Rules of Civil Procedure, as amended, such as the one at bar, is limited to reviewing only errors of law, not of fact.[7] The rationale of this rule is founded on the fact that the Supreme Court is not a trier of facts. Thus, it is not the proper venue to consider factual issues. It may, however, consider factual matters where the findings of fact complained of are devoid of support by the evidence on record or the assailed judgment is based on the misapprehension of facts.[8]

Here, petitioner is asking us to calibrate the whole evidence anew and consider once again the credibility of witnesses and make another factual determination based thereon – a course of action which is clearly improper given the nature of the instant petition.[9] In other words, what petitioner is raising before us are questions of fact not proper for our consideration.[10]

We have consistently adhered to the rule that where, as here, the culpability or innocence of an accused would hinge on the issue of the credibility of witnesses, the findings of fact of the Court of Appeals affirming those of the trial court, duly supported by sufficient and convincing evidence, must be accorded the highest respect, even finality, by this Court and are not to be disturbed on appeal.[11] Petitioner has not shown any cogent reason why we should reverse the findings of both courts below. His petition must therefore fail.

In *Reyes, Jr. vs. Court of Appeals*,[12] we ruled:

“The issue raised is whether the Court of Appeals erred in affirming the conviction of petitioner and giving credence to the testimony of complainant despite contradictions which affect its veracity.

We find the petition without merit.

In assailing the weight of evidence supporting his conviction, petitioner asks this Court to review the factual evidence and evaluate the credibility of the witnesses' testimonies. However, questions of fact cannot be raised in an appeal via certiorari before the Supreme Court and are not proper for its consideration. Petitioner has not shown that the case falls under any of the exceptions to this rule. Moreover, it is not the function of this Court to examine and determine the weight of the evidence supporting the assailed decision.

Also, the issue hinges on credibility of witnesses. We have consistently adhered to the rule that where the culpability or innocence of an accused would hinge on the issue of credibility of witnesses and the veracity of their testimonies, findings of the trial court are given the highest degree of respect. These findings will not be ordinarily disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts of circumstances of weight or substance which could very well affect the outcome of the case. It is the trial court that had the opportunity to observe ‘the witnesses’ manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths. It had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination. Inconsistencies or contradictions in the testimony of the victim do not affect the veracity of the testimony if the inconsistencies do not pertain to material points.”

WHEREFORE, the instant petition for review on certiorari is hereby DENIED and the assailed Decision and

Resolution of the Court of Appeals in CA-G.R. CR No. 17996 are AFFIRMED.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by Associate Justice Antonio M. Martinez, now a retired Justice of the Supreme Court, with Associate Justice Lourdes Tayao-Jaguros, retired, and Associate Justice Salvador J. Valdez, Jr., concurring.

[3] Now Office of the Provincial Prosecutor.

[4] Exhibit "A," Records at 7.

[5] Ibid. See also Exhibit "B," Records at 6.

[6] CA Rollo at 145.

[7] Pacific Airways Corporation vs. Tonda, G.R. No. 138478, November 26, 2002, 392 SCRA 625; Magellan Capital Management Corporation, et al. vs. Rolando Zosa, G.R. No. 129916, March 26, 2001, 355 SCRA 157; Montecillo vs. Reynes, G.R. No. 138018, July 26, 2002, 385 SCRA 244.

[8] Hawaiian Philippine Company vs. Borra, G.R. No. 151801, November 12, 2002, 391 SCRA 453; Cano vs. The Chief, Philippine National Police, G.R. No. 139368, November 21, 2002, 392 SCRA 299.

[9] Id.; Tormes vs. Llanes, G.R. No. 149645, July 11, 2002, 384 SCRA 561.

[10] Reyes vs. Court of Appeals, G.R. No. 127703, January 18, 2002, 374 SCRA 86, citing Castillo vs. Court of Appeals, 329 Phil. 150, 159 (1996).

[11] Id.; Pacific Airways Corporation vs. Tonda, supra, citing Benguet Exploration vs. Court of Appeals, 351 SCRA 445, 455 (2001).

[12] Supra at 91-93.

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