RAYMUND ARDONIO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 134596. September 21, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In his petition for review on certiorari before this Court, petitioner Raymund Ardonio seeks to set aside the Decision of the Court of Appeals in CA-G.R. CR No. 18956, dated October 21, 1997, and its Resolution of June 29, 1998 denying petitioner's motion for reconsideration. The assailed decision affirmed the conviction of the accused for the crime of Homicide by the Regional Trial Court, Branch 24, Iloilo City, in Criminal Case No. 36560.

The conviction of the appellant stemmed from an information reading as follows:

> That on or about April 4, 1991, in the Municipality of Lemery, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm of unknown caliber, with treachery and abused (sic) of superior strength and a decided purpose to kill, did then and there, willfully, unlawfully and feloniously attack, assault and shoot Emmanuel Balano inflicting gunshot wound in the head which caused his death,
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> CONTRARY TO LAW.[1]

Upon arraignment, petitioner pleaded not guilty to the crime charged. Trial proceeded in due course. The evidence of the prosecution as found by the trial court is as follows:

> Prosecution evidence tends to show that in celebration of its fiesta, Brgy. Northwest Zone, Lemery, Iloilo, the residents held a dance in the evening of April 3, 1991. At about 1:00 a.m. the following morning (April 4) a violent commotion took place just outside the dancehall. Emmanuel Balano and Allan Ardonio who earlier that evening had an altercation inside the dancehall which incidentally was pacified, were seen exchanging fist blows. Then three persons were seen ganging up on Emmanuel, namely: Lito Ardonio, Elmer Calubia and Raymund Ardonio. The latter in particular, pulled Emmanuel towards the side of the fence and shot him. Upon being hit, Emmanuel fell, face down. Forthwith, Lito, Allan, Elmer and Raymund ran away from the place.
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> While the fighting was going on, Adolfo Ardonio, the father of Allan and Raymund, was seen at the dark portion of the street, holding a long firearm.[2]

On the other hand, the defense put up by the petitioner is summarized by the trial court as follows:

> In his defense which is corroborated in part by Adolfo Ardonio and substantially by Elvis Calubia, accused Raymund Ardonio admits that he was at the dancehall on that occasion. According to him, about past midnight, there was an altercation inside the dancehall between Emmanuel Balano and his brother, Allan Ardonio. This was pacified, however. About thirty minutes thereafter, an explosion (shot) was heard outside the gate of the dancehall. People scampered, as a result. The policemen inside the dancehall rushed out. He too went out. Outside, he saw Emmanuel lying flat on the ground. Somebody informed him that Allan shot

> Emmanuel. On hearing this, he hurriedly proceeded to the house of his grandfather, Ramon Ardonio. When he reached the place, Elvis Calubia, Lito Ardonio and Allan were there. A few moments later, policemen arrived looking for his father and Allan. Lito surrendered Allan to the policemen. The latter then led Allan towards the Municipal Bldg. and mauled him along the way. He wanted to accompany Allan but the policemen prevented him. Sometime later, two explosions were heard. After a short while, his mother and brother, Jagip arrived and informed them that Allan was shot. He stayed in the house of his grandfather until 6:00 a.m. Then, he decided to leave for home. On that occasion or sometime thereafter there never was an attempt to arrest him as a suspect in the killing of Emmanuel.[3]

Based on the evidence presented, on April 4, 1995, the trial court rendered a decision finding Raymund Ardonio guilty beyond reasonable doubt of the crime of homicide and not murder. It found that Ardonio's defense of alibi could not succeed considering his positive identification by credible witnesses, Liezl Vitala and Salvador Castor as the author of the killing of Emmanuel Balano. It, however, ruled out the qualifying circumstances of treachery and abuse of superior strength in the killing of Balano. According to the trial court, while there was superiority in number, this was not taken advantage of "as initially the fight was only between Allan and Emmanuel. Lito and Elmer only came to the succor of Allan. Likewise, Raymund, but unlike the two, he used a gun which resulted in the death of Emmanuel."

The dispositive portion of the trial court's decision reads:

> WHEREFORE, premises considered, the Court finds accused Raymund Ardonio guilty beyond reasonable doubt of homicide and hereby sentences him to a prison term covering the period from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months; to pay the heirs of Emmanuel Balano the sum of Fifty Thousand Pesos (P50,000) as compensatory damages; to pay the sum of Twenty Six Thousand One Hundred Pesos (P26,100) representing the funeral, wake and burial expenses; and, to pay the costs.
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> Accused should be credited in full for the period of preventive imprisonment if he agrees voluntarily in writing to abide by the disciplinary rules imposed on convicted prisoners; otherwise, only four-fifths thereof.
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> SO ORDERED.[4]

Petitioner questioned his conviction before the Court of Appeals. As mentioned at the onset, petitioner's conviction was affirmed by the court a quo. Hence, petitioner is before this Court on the ground that there exists evidence which casts as reasonable doubt as to his guilt.

> The fundamental issue raised in this petition is the failure of the lower court and the Honorable Court of Appeals to consider the presence of evidence raising reasonable doubt as to the guilt of the accused, consisting of the testimony of prosecution witness Salvador Castor, granted full credence by the lower court and the Honorable Court of Appeals as an eyewitness to the incident, but the testimony of this witness that he reported the incident to the police authorities including the fact that it was the petitioner who caused the death of the victim, yet the police authorities did not pick up and arrest the petitioner, who was present when the arrest was made, and the person arrested was Allan Ardonio who was eventually killed because of his being the culprit in causing the death of the victim, Emmanuel Balano. The fundamental legal principle in the conviction of the accused is that his guilt must be proved by evidence beyond reasonable doubt. And the presence of evidence either favoring his guilt or his innocence must be resolved in favor of his innocence, as moral certainty of his guilt would not be present. (People vs. Bania, 134 SCRA 353; People vs. Libag, 184 SCRA 719; People vs. Fernandez, 186 SCRA 839).[5]

After a careful evaluation of the records of this case, we find the petition to be without merit.

The prosecution and the defense presented contradictory accounts of the events leading to the death of Emmanuel

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Balano. Well-settled is the doctrine that the opinion of the trial court as to which version of the commission of the crime should be believed is entitled to great respect. This is because the trial judge had the opportunity to observe the demeanor of the witnesses on the stand and thus determine who of the witnesses deserve credence.[6] A close examination of the records reveals no justification to depart from the trial court's findings on the issue of credibility.

Petitioner failed to show any ill-motive on the part of witnesses Liezl Vitala and Salvador Castor for testifying against him. There being no showing of improper motive on the part of Liezl and Salvador for identifying the accused as the perpetrator of the crime, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.[7] The trial court ruled, thus:

> As regards the testimonies given by prosecution witnesses Leizel Vitala and Salvador Castor, implicating accused in the fatal shooting of Emmanuel [Balano], no evidence was ever introduced ascribing ill motive on their part in testifying. `Testimony of prosecution witnesses pointing to accused as murderer is credible where there is no evidence of grudges or ill-will x x x. it is hardly credible that such a person would pervert the truth, testify to a falsehood, and cause the damnation of one who had neither brought him harm or injury.' (People v. Mendoza, L-34335, March 25, 1983).
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> The mere fact that the police authorities failed to arrest accused who was allegedly in the house of Ramon Ardonio at the time they arrested Allan thereat is not conclusive of the fact of his innocence or that Allan is the guilty party in the shooting of Emmanuel. There was almost spontaneity in the shooting of Emmanuel and the arrest of Allan so that it could not be far-fetched that the police authorities, in effecting the arrest, were guided more by the incident that transpired earlier inside the dancehall whereat Allan and Emmanuel traded fist blows.
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> From the evidence adduced by the prosecution, it appears that Allan and Emmanuel traded fist blows first, then Lito Ardonio and Elmer Calubia joined the fray, after which Raymund appeared and forthwith shot Emmanuel.[8]

Petitioner, however, makes much of the fact that it was Allan Ardonio who was initially arrested by the police authorities. The arrest of petitioner's brother was allegedly based on information provided by prosecution witness Salvador Castor to the police immediately after the incident. Moreover, petitioner claims that he was present at the time of his brother's arrest and yet the police authorities did not arrest him. Such claims are of no moment. Aside from petitioner's self-serving claim that he was present at the time of his brother's arrest, there is no other evidence to prove that he indeed was there when the authorities picked-up Allan. The police had enough reason to arrest Allan, as he was involved in a fistfight with the victim moments before the latter was shot. Thus, the mere fact that Allan was arrested does not in anyway cast a reasonable doubt on the prosecution's evidence that it was petitioner who shot the victim. Moreover, as pointed out by the Office of the Solicitor General, petitioner left Lemery, Iloilo, as disclosed by his father, Adolfo Ardonio to the court server who attempted to serve the warrant of arrest on petitioner. This Court has invariably held that flight is an indicium of guilt.[9]

All told, petitioner merely raises questions of fact. The trial court's factual findings have already been affirmed by the Court of Appeals, thus:

> The inconsistencies pointed out by appellant refer to collateral and insignificant matters which do not militate against the firmly established fact that the appellant committed the crime (People vs. Ocampo, G.R. No. 83436, February 9, 1993, 318 SCRA 609) Such inconsistencies cannot undermine the witnesses' credibility nor detract from the truth that Liezl and Salvador witnessed the incident and positively identified appellant as the killer of Emmanuel. Not only that, even appellant admits that the testimonies of the eyewitnesses jibed on material points indicating appellant's culpability.
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> Contrary to appellant's claim, the eyewitnesses did not give conflicting testimonies detrimental to the case of

> the prosecution. Salvador merely gave details which Liezl failed to notice, such as the fistfight between Emmanuel and Allan, the carbine slung from the shoulder of Emmanuel, the persons who gave Emmanuel assistance after the shooting and Emmanuel's companion at the dance hall. It was not surprising because Salvador was with Emmanuel before the shooting incident. Both joined the dance, and went out to buy candy from the store of Roding Cordero. However, Salvador returned to the dance hall ahead of Emmanuel who had to wait for his change. On the other hand, since Liezle was more interested in the coronation of the muses, she did not pay special attention to any person until the second fistfight between Emmanuel and Allan outside the dance hall. This explained why she stayed and waited although she was not feeling very well.
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> The evidence on hand has amply proven appellant's criminal liability for shooting Emmanuel Bolano (sic) to death. Appellant was positively identified by two eyewitnesses whose presence at the scene of the crime was not successfully refuted. Besides, appellant's defenses of denial and alibi are weak. Denial, like alibi, is inherently a weak defense and cannot prevail over the positive testimonies of Salvador Castor and Liezl Vitala, that appellant shot the victim, Emmanuel Balano. (People vs. Amaguin, G.R. Nos. 54344-45, January 10, 1994, 229 SCRA 166; People vs. Calope, G.R. No. 97284, January 21, 1994, 229 SCRA 413).
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> xxx[10]

As petitioner failed to present any compelling reason for this Court to disregard the factual findings of the lower courts, the petition must fail.

IN VIEW OF THE FOREGOING, the petition is DENIED.

SO ORDERED.

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

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[1] Rollo, p. 19.

[2] Ibid.

[3] Rollo, p. 20.

[4] Rollo, p. 22.

[5] Id., at 10-11.

[6] People v. Paredes, 332 Phil. 633, 639 (1996).

[7] People v. Hernandez, 304 SCRA 186, 194 (1999); People v. Tabaco, 270 SCRA 32, 54 (1991).

[8] Id., at 49.

[9] People v. Javier, 229 SCRA 638 (1994).

[10] Rollo, pp. 28-30.

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