PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPO1 WILFREDO LEAÑO, SPO1 FERDINAND MARZAN, SPO1 RUBEN B. AGUSTIN, SPO2 RODEL T. MADERAL, SPO2 ALEXANDER S. MICU AND SPO4 EMIL...

G.R. No. 138886. October 09, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us on appeal is the Decision[1] dated April 22, 1999 of the Regional Trial Court of Manila, Branch 41, in Criminal Case No. 97-160355, finding appellants Wilfredo Leaño, Ferdinand Marzan, Ruben Agustin, Alexander Micu and Emilio Ramirez, guilty of two (2) counts of murder for killing Elizer Tullao and Vicente Bauzon.

The Information[2] charging the appellants and accused Rodel Maderal with double murder, reads as follows:

> That on or about the 8[th] day of March, 1996, in the municipality of Ramon, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being all members of the Philippine National Police of Santiago City, and taking advantage of their positions as such police officers, conspiring, confederating together and helping one another, with intent to kill and with evident premeditation, treachery, abuse of superior strength, cruelty, ignominy, employing means to afford impunity and with the use of motor vehicles, did then and there, attack and hit for several times with blunt intruments, hack and stab for several times with pointed/bladed instruments the persons of ELZER TULIAO[3] and VICENTE BAUZON, inflicting upon them multiple fractures, hack and stab wounds on the different parts of their bodies, which directly caused their deaths, after which, the said accused, in pursuance of their conspiracy, brought the cadavers of the said victims to Barangay Purok Ni Bulan in said municipality and by deliberately and inhumanly augmenting, outraging and scoffing at the corpses of the said victims and to conceal the commission of the crime, cover the corpses with rice straws and set fire upon them.
>
> Contrary to law.[4]

When arraigned on June 6, 1996, appellants Alexander Micu, Ruben Agustin, Wilfredo Leaño and Emilio Ramirez pleaded not guilty to the charge.[5] On November 19, 1997 appellant Ferdinand Marzan was arraigned and entered a plea of "not guilty" to the offense charged.[6] Their co-accused, Rodel T. Maderal, is still at large.

The appellants filed a petition for bail but the same was denied on April 17, 1998.[7]

The prosecution presented thirteen (13) witnesses, namely: Elizabeth Feliciano,[8] live-in partner of the victim Elizer Tullao; Lucero Mendoza,[9] Police Chief Inspector of Santiago City; Dionisio Secolles,[10] a tricycle driver, Homer De Imos,[11] Wilbert Zara[12] and Cresencio Quimat,[13] all duck raisers; Virgilio Tullao,[14] father of the victim Elizer Tullao; SPO1 Rogelio Sanchez,[15] police investigator on duty on March 8, 1996; Dr. Antonio Vertido,[16] Medico Legal Officer of the National Bureau of Investigation (NBI); Narciso Tullao,[17] brother of Virgilio Tullao; Nestor Pascual,[18] Atty. Constantino Joson,[19]and Atty. Mario Sison,[20] all NBI Special Investigators.

The evidence for the prosecution shows that on March 3, 4, and 5, 1996 appellants Ferdinand Marzan, Alexander Micu, Emilio Ramirez, Ruben Agustin, and Wilfredo Leaño went to the Lucky One Cocktail Lounge and asked Elizabeth Feliciano, an employee of the said lounge, about the whereabouts of her live-in partner, Elizer Tullao. Elizabeth Feliciano testified that she noticed during the first visit of the appellants that Wilfredo Leaño was carrying a bolo aside from his firearm; and that the last time she saw the victim, Elizer Tullao, alive was in the restaurant on March 7, 1996 from 9:00 o'clock in the evening up to 12:00 o'clock midnight, when he was with the other victim, Vicente Bauzon.[21]

At past 2:00 o'clock in the early morning of March 8, 1996, Dionisio Secolles was driving his tricycle along the provincial road when he met the police service Anfra jeep and a motorcycle without cover proceeding towards the town of Ramon, Isabela. On board the Anfra jeep were five (5) policemen, all wearing white T-shirts and fatigue pants. The motorcycle was driven by appellant Marzan with co-accused Maderal as passenger.[22]

Two (2) hours later, between 4:00 o'clock and 5:00 o'clock in the morning, Homer De Imos and Wilbert Zara were asleep in a hut in Purok Nibulan, Ramon, Isabela when they were awakened by the smell of something burning. Homer De Imos went out of the hut to investigate and saw appellants Leaño and Micu burning two (2) cadavers. When appellants Leaño and Micu noticed Homer De Imos, the two (2) ran towards a parked jeep and a motorcycle with uncovered sidecar, both colored white. The said two (2) appellants boarded the white jeep from the back and together with the motorcycle sped towards the town of Ramon, Isabela. Before the vehicles left, Homer De Imos and Wilbert Zara noticed another person wearing a white T-shirt and fatigue pants standing beside the motorcycle, but they were unable to recognize the said person.[23]

Lucero Mendoza, Police Chief Inspector of Santiago City, prepared the disposition of policemen during the month of March 1996, and he confirmed that there were only two (2) patrol jeeps assigned to the night duty patrol teams, one of which was an Anfra jeep assigned to the North Patrol Section composed of appellants SPO4 Emilio Ramirez, team leader and driver, SPO1 Wilfredo Leaño and SPO1 Ruben Agustin, as members. Not one of the members of the team assigned to the North Patrol Section filed a leave of absence or went AWOL in the month of March, 1996, particularly on March 7 and 8, 1996.

When the bodies of the victims, Elizer Tullao and Vicente Bauzon, were exhumed on March 13, 1996, Dr. Antonio Vertido, NBI medico-legal officer, conducted an autopsy which revealed that the cadavers were already in the early stage of post-mortem decomposition, which means that the victims had been dead for more than forty-eight (48) hours. Dr. Vertido declared that the assailants of victim Elizer Tullao could have been more than one considering the number of injuries he found in the body of the latter.[24]

Virgilio Tullao, father of the victim, Elizer Tullao, declared that ex-Mayor Jose "Pempe" Miranda of Santiago City had the motive to order the killing of his son Elizer Tullao. Virgilio was the "table manager" of the jueteng operations in Santiago City from 1991 to 1994 operated and maintained by former Mayor Miranda. The appellants are bodyguards of Miranda and allegedly benefactors of the jueteng operation.[25] Since Virgilio testified in the Senate Blue Ribbon Committee about the alleged jueteng operation of former Mayor Miranda, he claimed that the ex-mayor had the motive to order the killing of his son, Elizer Tullao; and that Dr. Bining Acosta and Virgilio Languban, close friends and political supporters of ex-mayor Miranda, offered him through his brother, Narciso Tullao, to drop this case of double murder for and in the proposed consideration of one condominium unit and One Million Pesos (P1,000,000.00) in cash.[26] Narciso Tullao corroborated his brother's testimony to the effect that efforts to settle the case against the appellants were made.

Each of the appellants categorically denied the charge against them and interposed different alibis.

Appellant Alexander Micu claimed that on the night of March 7, 1996 he attended the wake of the father of his

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wife's co-employee, Evelyn Samanejo, where he played "tong-its"[27] and left early morning on the following day.[28] Samuel Dupitas and Vilma dela Cruz corroborated his testimony.[29]

Appellant Emilio Ramirez, on the other hand, claimed that at the time material to the case he was the team leader of the police force patrolling the north sector of Santiago City. While his team has two (2) members, only appellant Leaño was with him because appellant Agustin was still in Solana, Cagayan to follow-up a case. On March 7, 1996, their tour of duty was from 6:00 o'clock p.m. up to 6:00 o'clock in the morning of the following day. Ramirez declared that on the night of March 7, 1996 he and appellant Wilfredo Leaño went to Canlang Hospital; that because of lack of gasoline, he requested to use the L-200 pick-up of Chief of Police Lucero Mendoza for that purpose. At 1:30 in the morning of March 8, 1996, they responded to a call for police assistance at Starlight Disco Club where they apprehended a certain Moncao Manotok. They brought Manotok to the police station and stayed there up to 3:00 o'clock in the morning, and thereafter they again conducted their patrol up to 5:00 o'clock in the morning.[30]

Appellants Wilfredo Leaño, Ruben Agustin and Ferdinand Marzan waived their right to testify during the trial of the case at bar.

The lower court rendered its decision on April 22, 1999, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding the accused Wilfredo Leaño, Ferdinand Marzan, Ruben Agustin, Alexander Micu and Emilio Ramirez guilty beyond reasonable doubt of the crime of Murder (2 counts) and sentencing each of them to suffer the penalty of reclusion perpetua for the death of each victim or a total of two reclusion perpetua and to jointly and severally pay the heirs of each victim the amount of P50,000.00 for the life of the victim and P200,000.00 for moral and exemplary damages.
>
> Let a warrant of arrest issue against accused at large Rodel Maderal.
>
> SO ORDERED.

Hence, this appeal with eleven (11) assigned errors, to wit:[31]

> I
>
> THE TRIAL COURT ERRONEOUSLY IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME OF MURDER DESPITE THE INSUFFICIENCY OF THE PROSECUTION'S EVIDENCE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.
>
> II
>
> THE TRIAL COURT ERRED IN HOLDING THAT WHILE THERE IS NO DIRECT EVIDENCE SHOWING THE ACTUAL KILLING OF THE TWO VICTIMS, THE PROSECUTION HAS ESTABLISHED SUFFICIENT CIRCUMSTANTIAL EVIDENCE THAT WOULD SHOW THAT THE ACCUSED-APPELLANTS WERE AMONG THE PERPETRATORS OF THE CRIME CHARGED, ESPECIALLY THAT THE PROSECUTION FAILED TO ESTABLISH THE CORPUS DELICTI AND THE IDENTITY OF THE PERPETRATOR OR PERPETRATORS OF THE CRIME.
>
> III
>
> THE TRIAL COURT ERRED IN HOLDING THAT ACCUSED-APPELLANTS ALEXANDER MICU AND WILFREDO LEAÑO WERE POSITIVELY IDENTIFIED AS THE TWO PERSONS WHO WERE BURNING THE CADAVERS OF THE TWO VICTIMS, RELYING ON THE TESTIMONY OF PROSECUTION WITNESS HOMER DE IMOS, DESPITE THE FACT THAT DE IMOS' TESTIMONY WAS NOT ONLY FANTASTIC AND INCREDIBLE BUT ALSO CONTRARY TO HUMAN EXPERIENCE.

IV

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE SERIOUS CONTRADICTIONS AND INCONSISTENCIES IN THEIR TESTIMONIES.

V

THE TRIAL COURT ERRED IN HOLDING AGAINST THE ACCUSED-APPELLANTS THE FACT THAT ONLY TWO, APPELLANTS ALEXANDER MICU AND EMILIO RAMIREZ, TESTIFIED IN COURT TO DENY AND CONTROVERT THE EVIDENCE AGAINST THEM, WHILE THE OTHER THREE, WILFREDO LEAÑO, RUBEN AGUSTIN AND FERDINAND MARZAN, OPTED TO REMAIN SILENT AND DID NOT TESTIFY IN THE TRIAL OF THE CASE.

VI

THE TRIAL COURT ERRED IN NOT GIVING WEIGHT TO THE DEFENSE OF ALIBI OF ACCUSED-APPELLANTS ALEXANDER MICU AND EMILIO RAMIREZ DESPITE THE FACT THAT THE SAME ARE CREDIBLE AND WORTHY OF BELIEF CONSIDERING THAT THEY WERE CORROBORATED BY OTHER WITNESSES AND HAVE SATISFIED THE REQUIREMENTS OF TIME AND PLACE.

VII

THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED-APPELLANTS ACTED IN CONSPIRACY WITH EACH OTHER IN PERPETRATING THE KILLINGS OF THE TWO VICTIMS.

VIII

THE TRIAL COURT ERRED IN NOT HOLDING THAT ACCUSED-APPELLANTS COULD NOT HAVE BEEN THE PERPETRATORS OF THE CRIME CHARGED, BUT ANOTHER GROUP OF PERSONS, AS TESTIFIED TO BY OTHER DEFENSE WITNESSES.

IX

THE TRIAL COURT ERRED IN HOLDING THAT THE AGGRAVATING CIRCUMSTANCE OF OUTRAGING OR SCOFFING AT THE CORPSES OF THE VICTIMS ATTENDED THE COMMISSION OF THE CRIME

X

THE TRIAL COURT ERRED IN AWARDING ACTUAL, MORAL AND EXEMPLARY DAMAGES TO THE HEIRS OF EACH VICTIM DESPITE ABSENCE OF PROOF TO SUBSTANTIATE SAID DAMAGES.

XI

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANTS AND IN IMPOSING UPON THEM THE PENALTY OF TWO RECLUSION PERPETUA AND IN NOT ACQUITTING THEM OF THE CRIME CHARGED, THEIR GUILT NOT HAVING BEEN PROVED BEYOND A REASONABLE DOUBT.

In lieu of Appellee's Brief,[32] the Solicitor General filed a Manifestation and Motion recommending the acquittal of all the appellants, on the grounds that:

- Appellants had no motive to commit the crime charged;

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- There is no adequate evidence to warrant the conviction of appellants Agustin, Ramirez and Marzan;

- There is also a lack of sufficient proof to find appellants Micu and Leaño guilty of the crime charged; and

- The qualifying circumstance of outraging and scoffing is not present.

We find the appeal to be meritorious and the Solicitor General's recommendation to be well-taken.

The most glaring fact in the prosecution's handling of this case in the court below is the lack of any eyewitness to the actual killing of the victims. Nobody actually saw the appellants allegedly killed the victims nor was any of the alleged murder weapons found. The fundamental issue in the instant appeal is whether or not there was sufficient circumstantial evidence to link the appellants to the killing of the victims to sustain a judgment of conviction beyond reasonable doubt.

When there is no eyewitness to a crime, resort to circumstantial evidence is inevitable. But in order to support a conviction, all the circumstances must be consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent. Thus, for circumstantial evidence to be sufficient for conviction, the following requisites must concur: (a) there must be more than one circumstance to convict; (b) facts on which the inference of guilt is based must be proved; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[33] The circumstances established must constitute an unbroken chain leading to one fair and reasonable conclusion pointing to the accused as the guilty person, to the exclusion of all others.

After a careful scrutiny of the evidence in the case at bar and considering the standards set forth above, we are of view and we hold that the circumstantial evidence adduced by the prosecution do not prove beyond reasonable doubt that the appellants perpetrated the crime charged. The supposed string of circumstances relied upon by the trial court are of the following:

- That all the accused-appellants were looking for the victim Elizer Tullao several days prior to the recovery of his dead burned body, the last time being on March 5, 1996;

- That at around 2:00 o'clock in the morning of March 8, 1996, Dionisio Secolles saw the police service Anfra vehicle and the service motorcycle proceeding to Ramon, Isabela, the place were the burned bodies were found. On board the Anfra jeep were five policemen while Marzan drove the motorcycle with Maderal as his passenger;

- That at about 4:00 o'clock to 5:00 o'clock a.m. of the same day, Homer De Imos saw appellants Leaño and Micu burning two cadavers which were later on identified as those of Elizer Tullao and Vicente Bauzon.

- That appellants Wilfredo Leaño, Ferdinand Marzan, Ruben Agustin, Alexander Micu, Emilio Ramirez and accused Rodel Maderal are members of Santiago City Police Force.

The trial court also discussed other circumstantial evidence, to wit:

xxx xxx xxx

The guilt of accused Emilio Ramirez is further shown by the fact that he was the team leader of the north patrol team which has an assigned Anfra vehicle and a motorcycle which were seen by witness Danilo[34] Secolles going to Purok Nibulan and seen also by witnesses Homer Deimos and Wilbert Zara near the place of the burning of the cadavers.

xxx xxx xxx

The guilt of accused Ruben Agustin is further shown by the fact that he belongs to the north patrol team with

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> the assigned Anfra vehicle and the motor tricycle together with accused Emilio Ramirez and Wilfredo Leaño.[35]

However, the above circumstances, as will be shown below, point to no inference consistent with the alleged guilt of the appellants.

1. From the mere fact that the appellants who are policemen were looking for the victim, Elizer Tullao, the last time being on the 5[th] day of March 1996 or three (3) days prior to the recovery of two (2) burned cadavers cannot be inferred that they were the authors of the crime. As held in the case of People v. Bravo,[36] "The prosecution's theory that the appellant is guilty of the crime charged because he was seen with the victim a few days before she was found dead is not tenable. x x x The two-day interval between the evening of January 12[th] when the victim was seen with the appellant and the day when her dead body was found on January 15[th] presents a wide range of possibilities as to the perpetrator of the crime." In the case at bar, it was not even established that the appellants actually met or were with the victims at the time when the crime was committed. All that the prosecution witness Elizabeth Feliciano declared was that the appellants were looking for the victim, Elizer Tullao, several days before the latter and Vicente Bauzon were found dead.

2. As to the second piece of circumstantial evidence allegedly linking appellants Maderal, Marzan, Agustin and Ramirez to the killing, the Court notes that the testimony of prosecution witness Dionisio Secolles pertains to the fact that he met along the highway, on his way back to San Mateo, Isabela, the PNP service Anfra jeep and the PNP motorcycle. The two (2) service vehicles were proceeding towards Ramon, Isabela, the place where the cadavers were burned. On board the Anfra jeep at that time were five (5) men wearing white T-shirts and fatigue pants while Marzan was driving the motorcycle with Maderal as his passenger.

Regarding appellants Agustin and Ramirez who by chance were members of the north patrol team, the trial court found them guilty as charged for having acted allegedly in conspiracy with each other. As to how said appellants conspired with each other, no proof, justification or reason therefor was advanced by the court a quo.

To effectively serve as a basis for conviction, conspiracy must be proved as convincingly as the criminal act itself. Like any element of the offense charged, conspiracy must be established by proof beyond reasonable doubt.[37]

In the case at bar, however, there is absence of evidence to show that appellants allegedly agreed to kill the victim, or that they acted in a manner as to show commonality of design and purpose with the actual perpetrator(s) of the crime. The testimonies given by the prosecution witnesses indicated only that appellant Marzan and accused Maderal were seen on board a motorcycle on their way to Ramon, Isabela, the place where the burned bodies were later found, and that they were members of the Santiago Police Force like appellants Ramirez and Agustin. As members of the police patrol team, they were merely seen patrolling within their area of responsibility and jurisdiction. Thus, without evidence as to how appellants allegedly participated in perpetrating the offense charged, conspiracy cannot be appreciated against them. Evidence of intentional participation is indispensable inasmuch as appellants' mere presence (assuming they were present) at the crime scene cannot be considered as proof of conspiracy. Likewise, mere companionship does not establish conspiracy.[38]

3. We find as unbelievable and too odd to accept the testimony of prosecution witness De Imos that he allegedly witnessed the burning of the cadavers by two (2) persons whom he later identified as appellants Leaño and Micu. De Imos declared that from a distance of fifteen (15) meters, he allegedly saw two (2) cadavers being burned by two (2) persons in military uniform, and that despite that he was alone, unarmed and mindful of the possibility that he might be harmed or even killed for having witnessed the incident, nevertheless, that he approached the site. The natural reaction of a person in such a circumstance would be to conceal himself as there was always the danger that he himself could be killed. Likewise, we find as unrealistic De Imos' testimony that when he

approached the scene and was about three (3) meters away from the two (2) persons in military uniform, the latter merely stared at him for about one minute and without saying anything, ran away. It is hardly believable and natural that two (2) persons in military uniforms and possibly armed who were brave enough to burn two (2) cadavers, would just scamper away upon seeing a lone stranger who was unarmed and frail looking like De Imos. When asked why he ran away after the two (2) persons in military uniform scampered away, De Imos declared that he got scared by the sight of the two (2) cadavers. How come that it was only at that point in time when De Imos felt afraid because of the two (2) cadavers? Thus, we find the conduct of prosecution witness De Imos as well as that of the two (2) persons allegedly burning the cadavers to be inconsistent with human experience and behavior.

The flip-flopping in the testimony of De Imos generated serious doubt as to its veracity. During his cross-examination by Atty. Lopez, De Imos testified that:

> Atty. Lopez
>
> xxx xxx xxx
>
> Q:
>
> The field where your tent was put up or established is a clear field, there are no trees, there are no talahib or structures there?
>
> A:
>
> A None, sir.
>
> Q
>
> And as far as you can see up to probably a hundred meters there are no trees, no structures obstruct ones view?
>
> A
>
> None, sir, "May mga maliliit na palay."
>
> Q
>
> These "maliliit na palay" were already planted, is that what you want to say.
>
> A
>
> Yes, sir.[39] (Underscoring supplied)

However, on further cross-examination, De Imos declared that:

> Atty. Jovelyn de Luna
>
> You said you went closer to the site of the burning and you came as closed as three meters to the site, is that not correct?
>
> A:
>
> Yes, ma'am.

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Q

How did you get that close, did you run, did you walk, how did you do it?

A

I walked slowly.

Q

So would it be safe to say that you surreptitiously walked towards that site of the burning?

A

Yes, ma'am.

Q

How did you do that, where there trees where you can hide yourself, are there bushes or did you just stand up and walk, how did you do it?

A

"May mga kahoy na nakatakip."

Q

So I would suppose that to get as close as three meters to the site you are from time to time trying to hide yourself among the trees, right?

A

Yes, ma'am.

Q

But you said a while ago that there are no trees there just palay, a small palay planted on that field, why are you now saying that there are trees where you hid yourself from to get as closed as three meters to the site?

A

"Sa may sinusunog may mga kahoy na malalaki pero sa amin, doon sa amin mga palay lang na maliliit."[40]

Testimonial evidence to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself in the sense that common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of judicial cognizance.[41]

Finally, while we are aware that the motive of the accused in a criminal case is generally held to be immaterial, not being an element of the crime, motive becomes important when, as in this case, the evidence of the commission of the crime is purely circumstantial. What the prosecution was able to spell out was merely the alleged motive of former Mayor Miranda who is not an accused in the case at bar. That alleged motive was apparently to get back at Virgilio Tullao, father of the victim, Elizer Tullao, who testified against former Mayor Miranda before the Senate Blue Ribbon Committee during its investigation of jueteng operations in Santiago City. That alleged motive was personal to former Mayor Miranda and cannot be attributed or imputed to the appellants who are his alleged bodyguards.

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The rules and jurisprudence demand no less than an unbroken chain of proven facts that would unmistakenly point to the accused-appellant as the guilty person to the exclusion of all others. This, the evidence for the prosecution failed to do. Circumstantial evidence is akin to a tapestry made up of strands which create a pattern when interwoven, and cannot be plucked out and considered one strand at a time independently of the others.[42]

Thus, the circumstances proferred by the prosecution and relied upon by the trial court, only created a mere suspicion that appellants probably perpetrated the crime charged. The reality and situation in the present case, however, call for the application of the equipoise rule, that is, where the inculpatory circumstances are capable of two inferences, one of which is consistent with the presumption of innocence and the other compatible with a finding of guilt, the court must acquit the appellants because the evidence does not fulfill the test of moral certainty and therefore is insufficient to support a judgment of conviction.

The basis of acquittal in this case is reasonable doubt which simply means that the evidence of the prosecution was not sufficient to sustain and prove the alleged guilt of the appellants with moral certainty or beyond reasonable doubt. An acquittal based on reasonable doubt will prosper even though the appellants' innocence may be doubted, for a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the evidence of the defense.

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE. Appellants Wilfredo Leaño, Ferdinand Marzan, Ruben B. Agustin, Alexander S. Micu and Emilio M. Ramirez are acquitted of the charge of two (2) counts of murder on the ground of reasonable doubt. Their immediate release from custody is hereby ordered unless they are being held for other lawful causes.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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* At Large.

[1] Penned by Judge Rodolfo A. Ponferrada; Rollo, pp. 41-63.

[2] Filed with the Regional Trial Court of Santiago City, but venue of the said case was transferred to Manila after this Court granted a petition to transfer the venue of the trial of the case, which was thereafter raffled to Branch 41.

[3] Should be Elizer Tullao.

[4] Original Records, Vol. I, pp. 5-6.

[5] Original Records, Vol. I, p. 92.

[6] Initially accused-appellant Marzan filed an Omnibus Motion dated June 5, 1996 praying for the reinvestigation of the case, the recall of the warrant of arrest issued against him , and the quashing of the Information for lack of probable cause, but subsequently withdrew his motion; Original Records, Vol. II, p. 320.

[7] Original Records, Vol. II, pp. 425-426.

[8] TSN, November 20, 1997.

[9] TSN, November 21, 1997.

[10] TSN, December 4, 1997; TSN, December 5, 1997.

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[11] TSN, December 5, 1997; TSN, December 11, 1997.

[12] TSN, December 11, 1997; TSN, December 12, 1997.

[13] TSN, December 12, 1997.

[14] TSN, January 8, 1998; TSN, January 22, 1998.; TSN, January 23, 1998.

[15] TSN, January 22, 1998.

[16] TSN, January 22, 1998.

[17] TSN, February 19, 1998.

[18] TSN, February 20, 1998.

[19] TSN, March 13, 1998; TSN, April 30, 1998.

[20] TSN, April 30, 1998.

[21] [TSN, November 20, 1997, pp. 24-29.]

[22] TSN, December 4, 1997, pp. 7-10.

[23] TSN, December 5, 1997, pp. 34-40.

[24] TSN, January 22, 1998, pp. 50, 71-78.

[25] TSN, January 8, 1998, pp. 4-6, 8.

[26] TSN, January 22, 1998, pp. 4-13.

[27] A card game.

[28] TSN, July 10, 1998; TSN, July 30, 1998; TSN, July 31, 1998.

[29] TSN, July 9, 1998.

[30] TSN, August 6, 1998.

[31] Rollo, pp. 97-99.

[32] Rollo, pp. 228-253.

[33] People v. Berroya 283 SCRA 111, 123 [1997].

[34] Should be Dionisio.

[35] Decision, p. 18.

[36] 318 SCRA 812, 824-825, [1999].

[37] De Carlos v. Court of Appeals, 312 SCRA 397, 407 [1999].

[38] People v. Del Rosario, 305 SCRA 740, 756 [1999].

[39] TSN, December 11, 1997, pp. 4-5.

[40] TSN, December 11, 1997, pp. 11-12.

[41] People v. Mahinay, 302 SCRA 455, 483, [1999].

[42] People v. Ragon, 282 SCRA 103.

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