

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AHMAD LANGALEN Y DEMALEN A.K.A. “KUMANDER KAMLON,” HASIM UPAM Y ABUBACAR, SAMSUDIN TALIB Y LIMBA, AND ABUBAKAR DAGADAS Y ANGGU...

G.R. No. 139670. January 21, 2002

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Under automatic review is the decision[1] of the Regional Trial Court (RTC) of Manila, Branch 18, in Criminal Case No. 95-145780, finding accused-appellants Ahmad Langalen y Demalen (hereafter AHMAD), Hasim Upam y Abubacar (hereafter HASIM), Samsudin Talib y Limba (hereafter SAMSUDIN) and Abubakar Dagadas y Anggubala (hereafter ABUBAKAR) guilty of violation of Presidential Decree No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974, and sentencing them to suffer the penalty of death.

The accusatory portion of the information[2] in Criminal Case No. 95-145780, under which accused-appellants were tried and convicted, reads as follows:

That at about 3:15 o'clock [sic] in the afternoon of September 8, 1995 along Palacio and Orosa Streets, Intramuros, Manila, a street or road used by persons or vehicles for movement, circulation or transportation of persons, goods or articles, and within the jurisdiction of this Honorable Court, the above-named accused, together with MOHAMAD MAMISON whose case is still pending preliminary investigation with the Department of Justice, and other persons whose identities are still unknown and are at large, conspiring, confederating and mutually helping one another, with intent to gain, did then and there, willfully, unlawfully and feloniously attack with firearms the four (4) vehicles convoy which were then traveling towards the general direction of Ermita, Manila and which occupants were then carrying money owned by proprietors/owners of VMG Money Changer amounting to Fourteen Million Seven Hundred Thousand (P14,700,000.00) Pesos, more or less, (Philippine Currency) and thereafter carted away said money contained in two (2) duffle [sic] bags and one (1) paper bag and on the occasion of such robbery, three (3) persons were killed and several others injured.

No bail was recommended for the temporary liberty of accused-appellants.

Upon their arraignment on 25 October 1995, accused-appellants entered a plea of not guilty and waived their right to a pre-trial. On even date, they filed a motion for bail on the ground that the evidence against them was weak. No action thereon was taken by the trial court. Trial on the merits proceeded on various dates.

The trial court summarized the evidence for the prosecution as follows:

The record shows that on September 8, 1995, at around 3:00 p.m. a convoy of nine male employees and/or private security guards of VMG Money Changer, which holds office in Ermita, Manila, together with two police escorts, SPO2 Romeo and SPO3 Ricardo Gonzales, were on board four cars travelling southward along Palacio Street. Loaded in the lead car driven by Zeny Santillan with Dante Castro and Gilbert Yu as passengers

were two leather bags and one paper bag of money in the total sum [sic] of P13,600,000.00. The money was earlier withdrawn from the Metrobank (P7,000,000.00) and the Equitable Bank (P6,600,000.00) in Binondo, Manila. Of the three occupants of the lead car, only Castro was armed with a .45 cal. pistol.

On nearing the intersection of P. Burgos and Gen. Luna Streets, the convoy stopped, because the traffic lights [sic] turned red. At this point, several men in fatigue uniform with bonnets covering their faces, (only their eyes and noses were exposed) and armed with rifles and handguns, suddenly appeared and fired at the convoy. Castro was able to return fire and so did the two police escorts. Later, Castro and his companion jumped from their car to seek cover across the street, but while running, Castro sustained gunshot wounds in his right thigh and left buttock, which rendered him unconscious for a few minutes. SPO3 Gonzales, who was inside the last car of the convoy, died on the spot due to gunshot wounds, while SPO2 Romeo suffered gunshot wounds in his right thigh, right leg and right armpit. Two other members of the convoy, Tiborcio Tomas and Tony Diquit also suffered gunshot wounds. The gunmen swiped the P13,600,000.00 from the lead car of the ambushed convoy and drove away in their vehicles.

[National Bureau of Investigation] Agent Moises Tamayo was assigned to investigate the robbery. On September 10, 1995, Hasam Mohammad was introduced to Agent Tamayo by the latter's friend, Allan Sulaybar. Mohammad revealed that his common-law wife, Halina Gulam, knew some of the people involved in the robbery. On September 15, Agent Tamayo met Gulam, who confided to him that Mohammad Mamison was one of those involved in the robbery and she executed a written statement on the matter, Exhibit "1". On the basis of this information, the NBI procured a search warrant from Hon. Executive Judge William Bayhon of the RTC of Manila, against Mamison and raided his house on No. 158 24th Avenue, Rembo Fort Bonifacio, Makati, on the early morning of September 19, 1995. The NBI operatives led by Atty. Artemio Sacaging did not find any illegal firearms in the house of Mamison, but nevertheless invited the latter to their office for investigation. And after about three hours of questioning and friendly persuasion by Agent Tamayo, Senior Agents Serafin Gil and NBI Special Investigators Gregorio Tumagan and Rene Sagun, Mamison finally admitted in the presence of his lawyer, Atty. Perfecto Caparas, and wife, Normina Kamid, his participation in the robbery and implicated the four accused as among those involved. And the declaration of Mamison was reduced into writing, Exhibit "B".

On September 22, 1995, the NBI operatives armed with a search warrant, raided the house of Accused Ahmad Langalen on RIN, Maharlika, Taguig, Metro Manila, where the operatives found and confiscated one .38 cal. revolver; one .45 cal. pistol, (both unlicensed), and live ammunitions for the two handguns. The four accused, Langalen, Upam, Talib and Daganas, who were all in the house of accused Langalen at the time of the raid, were arrested for illegal possession of firearms. At the NBI Headquarters, the four accused were positively identified in a police line- up by Mamison as participants in the robbery, and in connection therewith, Mamison executed a supplemental sworn statement, Exhibit "C".

In the trial of the case, Mamison, who is in the custody of the NBI under the witness protection program, was presented as a prosecution witness. He affirmed the truthfulness of the two sworn statements he had given to the NBI, Exhibits "B" and "C", and he declared that he is from Cotabato City, Mindanao, where he was a farmer before he took up residence in Metro Manila. From his testimony, the court has gathered that on September 8, 1995, at around 8:00 a.m., Mamison visited Accused Langalen (alias Kumander Kamlon) at the latter's house in Taguig, Metro Manila. The two have known each other for a long time when they were both residing in Cotabato. Mamison asked Accused Langalen for a loan of P100.00, but he rejoined that he has [sic] no money and suggested that Mamison instead go with his (Langalen's) men who were about to leave. Mamison asked Accused Langalen where his men were going, but he was told by the latter to just go with his men and he (Mamison), would later know their destination. Wanting to earn some money, Mamison accepted the offer of Accused Langalen and boarded an owner type jeep together with Accused Upan, Langalen and Daganas, and two other men, Nortin Ismael and Ibrahim Usman. Mamison saw Accused Talib board an L-300 Van together with [the] other men of accused Langalen. Except (for) Mamison who is [sic] to act as look out,

the men in the jeep were all equipped with firearms.

On reaching Intramuros, Mamison was made to get off from the jeep at a street corner near the Round Table Restaurant on Gen. Luna Street. Accused Upam instructed Mamison to inform them if he would see [sic] any policeman. Thereupon the jeep parked 20 meters away where the L300 Van later followed and also parked. Mamison saw the occupants of the jeep and the L-300 Van get off from the vehicles armed with handguns and rifles. Then suddenly he heard rapid gunfire and he saw his companions shooting at the occupants of the convoy of four cars that were on standstill. Alarmed and scared, Mamison ran to the direction of the City Hall, where he boarded a passenger jeepney and went home.[3]

The trial court did not recount the testimonies of the other witnesses for the prosecution, nor did it consider the testimonies of some defense witnesses. This decision, consisting of slightly more than four (4) pages, is perhaps one of the shortest ponencias we have reviewed where the death penalty has been imposed. This is rather lamentable in light of the gravity of the offense charged and the number of witnesses presented by the prosecution and the defense.

We are thus constrained to painstakingly examine and assess the evidence the parties presented and offered. In the process, and for moral certainty, we deem it necessary to summarize the testimonies of the other witnesses in the case at bar.

Witness Luis Gelvez was a bank representative of Montes Moveo Corporation. Among his duties was to withdraw money from the bank. In the afternoon of 8 September 1995, he was with his co-worker Bong Canapi, and he was instructed to withdraw P7,000,000 from the Metropolitan Bank & Trust Company (Metrobank) and P1,000,000 from the Citytrust Banking Corporation, both at the Plaza Lorenzo Ruiz branch in Binondo, Manila. Canapi was tasked to withdraw P6,600,000 from the nearby Equitable Bank & Trust Company (Equitable Bank). After these transactions, Gelvez informed his office that the money was ready for pick-up at Metrobank. He eventually turned over the P8,000,000 to Dante Castro and Gilbert Chua, his co-employees who met him at the bank. He remained in the bank to settle the balance of the office account. In the meantime, Canapi confirmed that the P1,000,000 he withdrew from Equitable Bank had also been handed to Castro and Chua. The entire collection was to be delivered to the VMG Money Changer branches at M.H. del Pilar Street, Ermita, Manila and Dian Street, Makati.[4]

Gelvez called up his wife, the cashier of VMG Money Changer, to inquire if Castro had already arrived. Instead, she asked where he was since she heard from the office's two-way radio that there were fatalities. He and Canapi immediately proceeded to the VMG Money Changer. On the way, they encountered heavy traffic near the city hall. He told Canapi to check the situation while he opted to park the car and walk toward Intramuros. There he saw the convoy of four cars used by Castro. All four vehicles were riddled with bullets and the police were already at the scene of the incident. He immediately checked the compartment of each car and discovered that all the money was gone. He also saw the dead body of their police escort inside a vehicle. There were five others who were wounded, all members of the convoy team. From there, he went back to the VMV Money Changer.[5]

Witness Dante Castro, a member of the security force of the VMG Money Changer, testified that he was at their office in the afternoon of 8 September 1995 when he received a call from Luis Gelvez, who instructed him to fetch the money the latter had just withdrawn. Along with ten companions in a convoy of four cars, they proceeded to Metrobank, Binondo branch, where Gelvez was waiting. He received the money contained in a knapsack and a brown paper bag and kept it inside the car compartment, before proceeding to the Equitable Bank to get the money withdrawn by Bong Canapi. On their way back to the office, while waiting for a green light at the corner of P. Burgos and Palacio Streets in Intramuros, he saw at least four men in green and brown fatigue uniforms who suddenly fired at them with their rifles. He immediately took cover under the dashboard of the car,

opened the door, and returned fire, hitting one of their assailants. Before he ran out of bullets, he saw three other men in fatigue uniform and wearing bonnets. He reloaded his gun then jumped out of the car to seek cover, but he was hit in the right thigh, which rendered him unconscious.[6]

The money Castro collected from Gelvez and Canapi allegedly amounted to P15,000,000, which were stored in two bags and a paper bag. The two bags were kept in the car's compartment while the paper bag was hidden under his seat. The entire collection was taken by their assailants. He also learned that their police escort, SPO3 Ricardo Gonzales, died on the spot, while another police escort received three gunshot wounds. One of their drivers was also injured. He categorically denied that any of their assailants were inside the courtroom. Neither could he identify them as their faces were concealed.[7]

Witness Senen Santillan, a driver at the Montes Moveo Corporation, recalled that in the afternoon of 8 September 1995, he was assigned to drive for Castro and his companion to Binondo. A convoy of four cars left the office and proceeded to Metrobank, Binondo branch. Castro and his companion alighted to go inside the bank and they returned after a couple of minutes with Castro toting a bag. He was told to open the compartment of the car, where Castro placed the bag. They proceeded to Equitable Bank, where the two obtained another bag, which was also placed in the car's compartment. Before boarding the car, Castro also received from a bank representative a paper bag which he placed beside his leg. On their way to Ermita, they were ambushed. He saw four men get off a green car in front of them. The men, wearing green fatigue uniforms and bonnets, immediately fired at them. He dove for cover, alighted from the car, and crawled under it. The gunfire went on for about five minutes. After the shootout, he saw that some of his companions had been wounded. He also discovered that the money was gone. However, he denied if he could still identify the malefactors.[8]

Witness PO3 Rodolfo de Castro was in the vicinity of the incident when he heard the gunshots. At the scene of the shootout, he saw a man in a long-sleeved brown barong tagalog armed with a baby armalite. They exchanged fire. He described the suspect as between 40 and 45 years old, about 5'6" and 150 pounds, with fair complexion and chinky eyes. The suspect escaped in a red car, which he chased in vain. He was certain that there was no owner-type jeep or L-300 van involved in the shootout.[9]

Witness SPO3 Pio Inocencio was another policeman who arrived at the crime scene after the incident. He saw four cars parked one after the other, all with multiple bullet holes. In the last car was an unidentified person, who apparently died on the spot. His team made an ocular inspection, took pictures and gathered available evidence for laboratory analysis. Investigation revealed that the suspects used four cars. He prepared a police report and a sketch[10] of the crime scene. Altogether, he submitted five progress reports[11] on the case.[12]

The gist of the testimony of Mohammad Mamison is contained in the factual findings of the trial court which was earlier quoted.

Witness Moises Tamayo was the National Bureau of Investigation (NBI) agent who took the statement of Mohammad Mamison in relation to the incident of 8 September 1995, after the NBI assumed jurisdiction over the investigation of the case and Mamison's involvement therein was determined. Tamayo was able to persuade Mamison to give a statement with the assistance of counsel, whom Tamayo recommended. Mamison eventually signed two sworn statements which also bore counsel's signature, where he identified accused-appellants as the perpetrators of the crime under investigation. Subsequently, AHMAD's home was raided, resulting in the confiscation of unlicensed .38 and .45 revolvers and ammunition. Accused-appellants were eventually arrested and were properly identified by Mamison.[13]

On cross-examination, Tamayo admitted investigating a certain Halima Gulam a week after the shootout. She had informed him that the participants of the crime were Mamison, Datu Jimmy and Datu Aries. Accused-appellants

were apparently never mentioned by her. She had also disclosed that on the day after the shootout, Mamison returned to his residence carrying a large brown envelope. Accordingly, Gulam overheard Mamison and his companions discussing the division of their loot. He also confirmed that during his investigation, Mamison never mentioned the names of accused-appellants.[14]

In the course of the trial, accused-appellants moved for the inhibition of Presiding Judge Perfecto A. S. Laguio, Jr., whom they accused of being biased against people charged with theft and robbery. They alleged that the questions he addressed to the witnesses were primarily aimed at assisting the prosecution and securing the accused-appellants' conviction. Under the circumstances they could not be afforded a fair trial. The trial court, however, denied the motion for lack of merit.

After the presentation of the evidence for the prosecution, accused-appellants filed their demurrer to evidence, arguing that the prosecution failed to establish the identity of the perpetrators of the crime and that the testimony of state witness Mohammad Mamison was not credible as to warrant their conviction. The trial court likewise denied the same for lack of merit.

On the other hand, accused-appellants all raised the defense of alibi and established the following facts:

AHMAD was the administrator of a mosque in Bicutan, Taguig. In the afternoon of 8 September 1995, he went to Union Bank, United Nations Avenue branch, Manila, to deposit P40,000, representing the church collection. He arrived at 2:30 p.m. and stayed until 3:20 p.m. He presented the bank's copy of the deposit slip[15] made in his name and under Savings Account No. 002-103895-8. The lower portion of the deposit slip bore the bank's machine validation imprint "08SEP95 14:38:09." After making the deposit, he exchanged pleasantries with Reynaldo Bandali, Union Bank Assistant Vice-President, as was his habit whenever he visits the bank. Thereafter, he went home, arriving thereat at 5:00 p.m.[16]

AHMAD acknowledged that HASIM and ABUBAKAR are his relatives, whereas SAMSUDIN was a complete stranger to him. On 22 September 1995, he, HASIM and ABUBAKAR were arrested at his home and brought to the NBI for investigation. It was there that he first met Mamison, who identified them as the perpetrators of a robbery committed in Intramuros, Manila, on 8 September 1995. His second and last confrontation with Mamison was on the day the latter testified against them in court. He did not know Mamison and he had no misunderstanding with him, so there was no reason why Mamison would implicate them in the crime.[17]

AHMAD's testimony was corroborated by Reynaldo Bandali, Assistant Vice President of Union Bank. Bandali joined the bank in 1990 as the bank's overseas remittance manager. In the afternoon of 8 September 1995, he was in the bank's United Nations Avenue branch, Manila. He had just come from a meeting at about 2:30 p.m. when he saw AHMAD waiting by his office. AHMAD sought his assistance in making a deposit since the queue was long. He accommodated AHMAD's request and even entertained him in his office. AHMAD left the bank at about 3:20 p.m. He confirmed the bank's copy of the deposit slip[18] for that particular transaction. He gave said copy to AHMAD's nephew upon learning that AHMAD was accused of the robbery that occurred that same afternoon. He knew that it could help AHMAD prove his innocence.[19]

Accused-appellant HASIM was a security guard employed by the Action Force Security Agency. From 1993 to 1995 he was assigned at the Manila Galleria Suites, located at the Ortigas Center, Pasig City. On the day of the incident in question, he was on duty, signing in at 6:00 a.m. and only leaving at 7:30 p.m. Officer-in-Charge Pepito Alapatin, Chief Security Conrad Banal, Security Inspector Harold Garcia as well, as his co-security guard Nicanor Armisa saw, him on duty that whole day. He acknowledged that AHMAD is his uncle, with whom he lived. As to state witness Mamison, he admitted that he had known him for about a year since Mamison used to live with his uncle. They never had any misunderstanding with him, so he cannot explain why he was linking

them to the robbery.[20]

The testimony of HASIM was confirmed by Pepito Alapatin, Harold Garcia and Nicanor Armisa.

In the afternoon of 8 September 1995, Alapatin was at the Manila Galleria Suites to inspect the security force of which HASIM was a member. He was certain that HASIM was at his post of assignment as his duty was from 7:00 a.m. to 7:00 p.m. on 8 September 1995. It was routine for the security force to assemble 30 minutes prior to the assumption of their duty to verify their attendance. On the date in question, HASIM was present for the assembly.[21]

As Internal Security Officer of the Manila Galleria Suites, Harold Garcia was tasked to inspect every two hours if the guards were at their posts. HASIM was among the guards detailed at the hotel. Garcia attested that on 8 September 1995, HASIM arrived at the hotel before 7:00 a.m. in time for the assembly briefing of the security force. He was certain that between 3 and 4 in the afternoon, HASIM was at his post at the guest floor level after conducting his routine inspection. HASIM left the hotel only after 7:00 p.m. He distinctly recalled that day because when he learned from the news that HASIM had been arrested, he knew it was impossible for him to have been involved in the crime because HASIM was on duty the whole day of 8 September 1995. HASIM continued reporting for work until the time of his arrest on the third week of September.[22]

On cross-examination, Garcia declared that it was impossible for HASIM to have left his post without the knowledge of hotel personnel. He explained that apart from the two-hour routine inspection he conducted, each guard was required to make a personal call every fifteen to thirty minutes to the security office. A missed call would alert the security office for an immediate investigation. In addition, roving guards of the hotel conducted supplementary inspection.[23]

Nicanor Armisa, a house detective of the Manila Galleria Suites, affirmed that HASIM was in Levels 23 and 24 of the hotel the whole day of 8 September 1995.[24]

Accused-appellant ABUBAKAR, a resident of Taguig, was a water delivery boy for the mosque in their neighborhood. He lived with his uncle AHMAD. HASIM is also his uncle. At about the time of the shootout in Intramuros, he was in the mosque with other churchgoers. On 22 September, he was arrested by NBI agents for his alleged involvement in a recent hold-up. At the NBI headquarters, he was identified as one of the perpetrators of the crime by Mamison, a stranger as far as he was concerned. He could not offer any reason why Mamison would accuse him of a crime. He denied the accusation but he later opted to keep quiet after he saw one of his companions being kicked by the agents.[25] He recalled that AHMAD left the house at around 2:00 that afternoon and returned only at about 6:00 p.m.[26]

The defense presented Mosaydin Mamalangkay, Abdul Sisay and Kutin Gudal, barangay officials and neighbors of ABUBAKAR, to corroborate the latter's alibi.[27]

On the other hand, accused-appellant SAMSUDIN testified that he was playing basketball in his hometown in Maguindanao in the afternoon of 8 September 1995. Among the spectators were Barangay Captain Oti Lumpaw and a teacher, Zainudin Ampang. On 17 September 1995, he made his first trip to Manila. He presented an Aboitiz Superferry ticket[28] issued in his name and dated 17 September 1995. The ship left in the morning of said date and arrived in Manila on 19 September. Five days later, he was arrested in his aunt's home in Taguig and brought to the NBI for his alleged participation in a robbery committed on 8 September 1995 in Intramuros, Manila. It was there that he first met the rest of accused-appellants.[29]

Zainudin Ampang,[30] a public high school teacher and resident of Maguindanao, corroborated SAMSUDIN's testimony. SAMSUDIN was his neighbor. In the afternoon of 8 September 1995, he saw SAMSUDIN playing

basketball at the plaza. There were about a hundred spectators then. Even in the succeeding days he would see SAMSUDIN playing basketball at the plaza. He denied knowing the other accused-appellants.[31]

After the defense rested its case, the trial court rendered its decision[32] on 4 August 1999, the decretal portion of which reads as follows:

WHEREFORE, this Court finds the accused, Ahmad Langalen y Demalen, Hasim Upam y Abubacar, Samsudin Talib y Limba and Abubakar Daganas y Anggubala, guilty beyond reasonable doubt of the crime of highway robbery under PD 532 and are hereby sentenced to suffer the penalty of death by lethal injection. The four accused are also ordered to pay the legal heirs of SPO3 Ricardo Gonzales death compensation and moral damages in the respective sums of P50,000.00 and P500,000.00, and P13,600,000.00 actual damages to the owner/s of VMG Money Changer with interest thereon at the legal rate from the filing of this case on October 16, 1995 until fully paid.

SO ORDERED.

The trial court gave credence to the testimony of prosecution witness Mamison, who testified in a “straightforward, positive and credible” manner. It further held that no improper motive could be ascribed to him to falsely testify against accused-appellants. On the other hand, it rejected the latter’s defense of alibi because it could not prevail over the positive testimony of Mamison. Finally, the trial court opined that conspiracy among accused-appellants was properly established when they left together in Taguig and proceeded to Manila to commit the heist.

The case is now before this Court for automatic review, pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of Republic Act No. 7659.

In their Appellants’ Brief, accused-appellants raise the following errors allegedly committed by the trial court:

- ... IN FINDING THAT THE TESTIMONY OF PROSECUTION’S SOLE “EYE-WITNESS” MAMISON, AS BEING STRAIGHT-FORWARD, POSITIVE AND CREDIBLE; AND, THAT, MAMISON HAD NO IMPROPER MOTIVE TO FALSELY IMPLICATE THE FOUR (4) ACCUSED-APPELLANTS IN THE CRIME CHARGED, OR HATCH UP THE STORY HE NARRATED TO THE COURT;
- ... IN NOT APPRECIATING THE TESTIMONY OF NBI AGENT MOISES B. TAMAYO AND THE AMBUSHED GUARDS WHICH CLEARLY CONTRADICTS THE TESTIMONY OF THE PROSECUTION’S “EYE-WITNESS” MAMISON; and
- ... IN NOT APPRECIATING THE EVIDENCE PRESENTED BY THE ACCUSED-APPELLANTS, CONSISTING OF NUMEROUS CREDIBLE WITNESSES WHO ARE OF GOOD REPUTATION, UNQUESTIONED PROBITY, UNBIASED AND DISINTERESTED.

Accused-appellants assail the testimony of state witness as being inconsistent with the testimonies of the other witnesses for the prosecution. In fact, it was Mamison who had a motive in implicating them to the crime. Mamison admitted that he acted as a look-out. NBI Agent Tamayo, however, testified that based on his investigation, Mamison was among the plotters of the robbery along with other named conspirators, none of whom included any of the accused-appellants. He also found out that after the shootout, Mamison fled his residence, and an informant told him (Tamayo) that Mamison and his cohorts were discussing in Quiapo the division of some loot. Accused-appellants argue that Mamison had to concoct a story and offer himself as a state witness to extricate himself from being charged for the offense.

Accused-appellants further assert that there were other details Mamison mentioned in his testimony that were in conflict with the testimony of the victims. Mamison claimed that the vehicles used by the malefactors were an

owner-type jeep and an L-300 van; that they were armed with hand guns and one rifle; and that they were wearing long-sleeved shirts and denim pants.[33] On the other hand, the victims testified that there were about seven assailants who wore black bonnets and fatigue uniforms, all armed with rifles. A red car and a green car were used as getaway vehicles. One witness even positively declared that none of the assailants was in the courtroom. Another witness particularly described a suspect as in his early forties, with a huge belly, about 150 pounds, with fair complexion and chinky eyes. He categorically denied in the presence of accused-appellants that said suspect was in the courtroom.

Thus, accused-appellants conclude that the glaring inconsistencies between the testimonies of the victims and that of Mamison put the latter's credibility in question. It was only Mamison who alluded to them as the alleged perpetrators of the crime. Other than his testimony, no other link was established by the prosecution to pin the crime on them. Therefore, accused-appellants invoke an urgent need to reexamine the factual findings of the trial court, especially considering the penalty imposed.

Finally, accused-appellants maintain that their defense of alibi was sufficiently established by the testimonies of disinterested persons of good reputation and unquestioned probity, as well as by the documentary evidence. The inevitable conclusion is that the prosecution failed to prove their guilt beyond reasonable doubt. They must, therefore, be accorded their constitutional right to be presumed innocent until the contrary is proved beyond moral certainty.

After a meticulous review of the records of this case and the evidence presented by the parties, we are convinced that the prosecution, indeed, failed to prove by the required quantum of evidence the guilt of accused-appellants. Thus, we reverse the challenged judgment and accordingly acquit them.

It bears emphasis that of the seven witnesses for the prosecution, only Mohammad Mamison implicated accused-appellants to the crime charged. It has long been settled that when the issue is one of credibility of the witnesses, the appellate courts will generally not disturb the findings of the trial court, which is in a better position to resolve the question after actually hearing the witnesses and observing their deportment during the trial. This rule, however, admits of exceptions, such as when the evaluation was reached arbitrarily or when the trial court ignored or failed to appreciate certain facts or circumstances of weight and substance which could affect the result of the case.[34]

The exception exists in this case, and a scrutiny of Mamison's testimony easily confirms it. He was not a party in the plotting of the heist; he only allegedly chanced upon accused-appellants as they were on their way to commit the crime. He was casually invited by AHMAD to join them although he had no idea what they were up to. He was instructed to warn AHMAD of the presence of any police from where he was dropped off. It was only later he realized that accused-appellants waylaid a convoy of vehicles. However, he did not see the actual robbery as he immediately fled after hearing the gunshots. He was not heard from nor seen again until he was called to an investigation. Yet, although he was the first to be investigated of those whom the law enforcers believed to be the authors of the crime, the information in this case, which was filed on 16 October 1995, states that the cases against "MOHAMAD MAMISON ... is still pending preliminary investigation with the Department of Justice." The records fail to disclose that Mamison was ever accused of the crime and later discharged as such on account of his utilization as a state witness.

Among Mamison's observations was that only two vehicles were used by accused-appellants, an owner-type jeep driven by AHMAD and an L-300 van. But prosecution witness Senen Santillan declared that the four men who ambushed them got off from a green car. Also prosecution witness Dante Castro described the assailants as wearing green fatigue uniforms with their faces concealed by bonnets. Prosecution witness SPO3 Pio Inocencio

was certain that no owner-type jeep or L-300 van was used in the heist. Finally, Castro and Santillan candidly testified that none of those who ambushed them and ran away with the money were in the courtroom. When they testified, all accused-appellants were inside the courtroom.

The foregoing observations strengthen the defense of alibi put up by accused-appellants.

We have time and again ruled that alibi is the weakest defense as it is easy to fabricate and difficult to disprove. For alibi to prosper, the accused must demonstrate by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime at the time the same was committed. Moreover, it cannot prevail over the positive identification of the accused.[35]

In the case before us, accused-appellants, particularly AHMAD and HASIM, had sufficiently established that it was impossible for them to have been at the scene of the crime at the time of its occurrence. Their alibi was corroborated by credible witnesses. Very revealing is AHMAD's alibi that he was at the bank at the time of the robbery and shootout. He had the bank's deposit slip[36] indicating the date and time the deposit was made, which was strengthened by the testimony of Union Bank Assistant Vice President Reynaldo Bandali. We see no cogent reason why a high-ranking bank official would falsely testify in favor of an accused. Moreover, no improper motive could be attributed to Banaldi.

The same can be said of HASIM, who was in his work station on the day of the robbery and shootout. His superiors attested to such fact. Again, these are disinterested witnesses to whom no improper motive could be imputed.

Based on the testimony of Mamison, it was AHMAD who was the mastermind of and a direct participant in the robbery. Yet, based on the evidence on record it is crystal clear that the alibi of AHMAD has been sufficiently established. This raises doubt on the credibility of Mamison. His implication of AHMAD is definitely disputable.

Other than MAMISON's testimony, no other evidence was offered to further demonstrate the culpability of accused-appellants. Indeed, we cannot affirm the conviction of accused-appellants when their guilt has not been established beyond reasonable doubt.

On a final note, we deplore some of the trial court's procedural omissions. There is an inexplicable neglect in accounting a thorough summary of the versions of the evidence for the prosecution and the defense. The prosecution had seven witnesses while the defense had eleven witnesses. Yet, the gist of its appreciation of facts of the shootout was primarily dependent on the testimony of state witness Mamison. It disregarded certain details declared by the victims of the shootout which cast doubt on the accuracy of Mamison's account. Moreover, the trial court peremptorily dismissed the defense of alibi of accused-appellants without disclosing that their alibi was corroborated by several disinterested witnesses. In this regard, the trial court was either neglectful of its duty or evidently lackadaisical or unmindful of the gravity of the offense. The trial court should have been more diligent and circumspect in judging this case and meting out the death penalty.

WHEREFORE, the decision of 4 August 1999 of the Regional Trial Court of Manila, Branch 18, in Criminal Case No. 95-145780, convicting accused-appellants AHMAD LANGALEN y DEMALEN a.k.a. "Kumander Kamlon," HASIM UPAM y ABUBACAR, SAMSUDIN TALIB y LIMBA and ABUBAKAR DAGANAS y ANGGUBALA of violation of Presidential Decree No. 532, otherwise known as Anti-Piracy and Anti-Highway Robbery Law of 1974, is hereby REVERSED and SET ASIDE. They are hereby ACQUITTED of the crime charged and ORDERED immediately released from confinement unless their further detention is warranted by virtue of any lawful cause. The Director of Bureau of Corrections is directed to submit a report of such release within five (5) days from notice hereof.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Original Record (OR), Volume II, 189-193; Rollo, 35-39. Per Judge Perfecto A.S. Laguio, Jr.

[2] OR, Volume I, 2-3; Rollo, 9-10.

[3] Decision, *supra* note 1, 1-3.

[4] TSN, 22 November 1995, 4-11; 29 November 1995, 35.

[5] *Id.*, 12-19; *Id.*, 10.

[6] TSN, 14 February 1996, 3-14; TSN, 22 February 1996, 9.

[7] *Id.*, 12-16; *Id.*, 2-4.

[8] TSN, 27 February 1996, 3-12, 14-17, 21.

[9] TSN, 9 November 1995, 3-20.

[10] Exhibit “F.”

[11] Exhibits “H” – “L.”

[12] TSN, 9 October 1996, 4, 6-8, 17-18, 31-32, 36.

[13] TSN, 7 February 1996, 5-10-12.

[14] *Id.*, 17-20.

[15] Exhibit “1,” OR, Volume II, 175.

[16] TSN, 27 May 1998, 3, 6-11.

[17] *Id.*, 15, 17-18, 20; TSN, 25 June 1998, 25-26.

[18] Exhibit “1,” *supra* note 15.

[19] TSN, 18 May 1999, 3-8.

[20] TSN, 10 July 1998, 3-10, 16-17, 19-21.

[21] TSN, 9 September 1998, 3-7.

[22] TSN, 5 August 1998, 5-12, 15-17, 20.

[23] *Id.*, 22-23.

[24] TSN, 9 September 1999, 28-32.

[25] TSN, 2 December 1998, 2-6, 9.

[26] *Id.*, 7-8.

[27] TSN, 9 December 1998, 3-6, 23-24, 26-32, 51; 25 February 1999, 3-9.

[28] Exhibit “4,” OR, Volume II, 182-A.

[29] TSN, 27 November 1998, 5-11, 23.

[30] The TSN misspelled his name as Saynudin.

[31] TSN, 25 November 1998, 4-9.

[32] Supra note 1.

[33] TSN, 22 August 1996, 3, 6.

[34] *People v. Laceste*, 293 SCRA 397, 407 [1998]; *People v. Galapin*, 293 SCRA 474, 487 [1998]; *People v. Villonez*, 298 SCRA 566, 580-581 [1998].

[35] *People v. Realin*, 301 SCRA 495, 512 [1999]; *People v. Tolentino*, 308 SCRA 485, 496-497 [1999]; *People v. Torio*, 318 SCRA 345, 354 [1999].

[36] Exhibit “1,” supra note 15.

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