

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HENRY ALICNAS, APPELLANT.

G.R. No. 142855. March 17, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an appeal from the Decision[1] of the Regional Trial Court of Baguio City, Branch 6, in Criminal Case No. 16110-R, convicting the appellant of robbery with homicide and sentencing him to suffer the penalty of reclusion perpetua.

The Case for the Prosecution

At about 10:00 a.m. on September 22, 1998, Hector Bautista and Rogelio Alsagar arrived in Baguio City on board a closed six-wheeler truck with Plate No. UDS 518, owned by their employer, the Manila Forwarders Corporation. They were tasked to deliver packages to consignees in Baguio City and outlying areas. Bautista was assigned to drive the truck and Alsagar was his helper. Alsagar had the total amount of P5,700 with him, P5,000 of which was placed in a bag for their expenses and allowances. The remaining P700, which was his personal money, was in his pocket. By 10:00 p.m., they had completed their deliveries and decided to sleep through the night in the parking area of the Mt. Crest Hotel, Legarda Road, Baguio City. Bautista parked the truck on the left side of the hotel facing the road. There were two other trucks parked nearby. Bautista dozed off in the driver's seat. Alsagar, who was seated on the passenger's seat on the right side of Bautista, also slept. The center light was on. The windows on both the driver and passenger's side were closed.

At about 5:00 a.m. the next day, Alsagar was awakened by someone knocking on the door of the right side of the truck. When he looked towards his right, he saw the appellant with a .38 caliber gun in his right hand. The appellant pointed it at Alsagar saying, "Hold-up ito. Buksan ninyo ang pinto, kung hindi babarilin kayo namin." Alsagar noticed that the appellant, who was wearing a black bonnet on his head which almost covered his thick eyebrows, had two companions. Fearing for his and Bautista's life, Alsagar opened the door of the truck at the right side. The appellant boarded the truck and ordered Alsagar to stand up. He then divested Alsagar of the P5,700.

Meanwhile, Alsagar noticed that the appellant's two companions, one of whom was also wearing a bonnet on his head, had opened the left door of the truck and was pulling the sleeve of Bautista's jacket. The latter resisted. Suddenly, Alsagar heard a gunshot and saw that Bautista was hit on the lower left armpit, already dead. The appellant and his two companions then fled from the scene.

Alsagar shouted for help. The caretaker of the parking lot rushed to the scene and, upon seeing the mortally wounded Bautista, contacted the police station and informed the authorities of the incident. SPO1 Romeo Agngaray, SPO2 Diosdado Gustilo and SPO1 Martin Sagorsor responded to the call. Dr. Vladimir Villaseñor of the PNP Crime Laboratory (Cordillera Administrative Region) also arrived at the scene and, upon opening the door of the truck, saw Bautista slumped on the driver's seat. He also noticed that the clothes and tools were in

disarray, apparently the contents of a bag. The lights in the truck were on.

SPO1 Gabriel Isiran also arrived to conduct his investigation of the incident. SPO1 Amadeo Garcia, who was assigned to the Criminal Actual Records and Information Section as a crime photographer, took photographs of the truck[2] and of Bautista slumped on the driver's seat.[3]

At the police station, Alsagar gave his statement to SPO1 Agngaray.[4] Alsagar gave the physical description of the appellant to Baguio City Police Cartographer SPO Augusto Mendoza. Alsagar described the appellant as one with a sharp nose, fair complexion (mestizo), 5 feet and 3 or 4 inches tall, with dark eyebrows, and a "rugged body."

Based on the description of Alsagar, Mendoza made a cartographic sketch of the suspect.[5] Upon being informed of her husband's death, Helen Bautista arrived in Baguio City and got in touch with the police investigators.

Medico-Legal Officer Vladimir Villaseñor performed an autopsy of the victim's body. He submitted Medico-Legal Report No. M-144-98 which contained the following post-mortem findings:

Body belongs to a fairly nourished, fairly developed male cadaver, in primary stage of flaccidity. With beginning post-mortem lividity at the dependent portions of the body. Conjunctivae, lips and nailbeds are pale.

Trunk:

Gunshot wound, point of entry, left anterior axillary region, measuring 0.8 x 0.8 cm., 18 cms. from the anterior midline, with a contusion collar measuring 0.2 cm. laterally, 0.1 cm. superiorly, inferiorly and medially, directed posteriorwards, slightly downwards and to the right, fracturing the 4th left thoracic rib, and the 5th right thoracic rib, lacerating the upper and middle lobe of the left lung, the lower lobe of the right lung, the pericardial sac and the ascending aorta, with a slug recovered embedded at the right costal region, just beneath the skin.

There are about 2,000 cc. of blood and blood clots accumulated in the thoracic cavity.

Stomach is full of dark reddish fluid. And the rest of the visceral organs are grossly unremarkable.

Cause of Death:

Hemorrhage as a result of gunshot wound of the trunk.[6]

The doctor found contusion collar on the edges of the gunshot wound. He recovered a slug from the right side of the victim's chest, just beneath the skin. He then turned it over to Firearms Examiner Dalmacio Magantino. The doctor testified that the assailant was more than 24 meters away from Bautista. He also stated that it was possible that Bautista was in a sitting position when he was shot and that considering the measurement of the gunshot wound, the slug came from a .38 caliber gun. The doctor signed Bautista's Certificate of Death.[7]

On October 5, 1998, Firearms Examiner Magantino conducted a ballistic examination of the slug recovered from Bautista's cadaver and submitted Report No. BC-FAIS-33-98 where he stated that the slug was fired from a .38 caliber handgun.[8]

On October 10, 1998, SPO2 Diosdado Gustilo informed SPO1 Agngaray that the appellant, who was one of those arrested for robbery by PO2 Domingo Batan of the Drug Enforcement Unit of the Baguio City Police Station, looked like the person in the cartographic sketch made by Augusto Mendoza. Agngaray informed Helen Bautista, the common-law wife of the victim, of the apprehension and summoned her to Baguio City. She then had Alsagar go up to Baguio City with her. From a police lineup of five persons in the Baguio City Jail, Alsagar pointed to and identified the appellant as the culprit.

A criminal complaint for robbery with homicide was filed with the Office of the City Prosecutor, Baguio City. The accused failed to file their counter-affidavits. On November 19, 1998, an Information was filed charging the appellant of robbery with homicide. The accusatory portion of the Information reads:

That on or about the 23[rd]day of September 1998, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, with intent to gain, and being then armed with a gun, and by means of violence and intimidation, did then and there willfully, unlawfully and feloniously take, rob and carry away cash money amounting to P5,700.00 belonging to the employer of Rogelio Alsagar and Hector Bautista; that on the occasion and by reason of said robbery and for the purpose of enabling them to take, steal, rob and carry away the said amount of money, the above-named accused, did then and there willfully, unlawfully and feloniously and with intent to kill shot Hector Bautista resulting to the death of said Hector Bautista.

CONTRARY TO LAW.[9]

The Case for the Appellant

The appellant denied any involvement in the charge. He testified that he was a resident of Ampucao, Itogon, Benguet, which was about 20 kilometers away from Baguio City. It would take one about 40 to 45 minutes to reach Baguio City from Ampucao on concrete roads.

During the school year 1998-1999, he was enrolled as a first year student at the Cordillera Career Development College at Buyagan, La Trinidad, Benguet. On Mondays, Wednesdays and Fridays, he left the house at 3:30 a.m. and would take a passenger jeepney bound for La Trinidad at Magsaysay Avenue. He would reach the school at around 7:00 a.m.

At times, the appellant slept in the house of his brother at Ambiong, La Trinidad, when it got late. From La Trinidad to Ambiong, he would go to Baguio City; from there, he would take a ride back to Ambiong.

At about 6:00 a.m. on September 23, 1998, the appellant boarded the passenger jeepney driven by Robert Taynan at the rotunda in Barangay Ampucao, Itogon. He was on his way to Baguio City. He attended his classes at the Cordillera College: Philippine History under Tecah Sagandoy at 7:30 a.m., and Sociology 101 under Geoffrey Kidlo at 8:30 a.m.

At 7:00 p.m. on October 10, 1998, the appellant and his friend, Frederick Baligan, went to the Carmel's Restaurant in Baguio City for a drink. They had just finished their exams and went out to relax after the grueling tests. When the appellant and his companion arrived, trouble ensued. The appellant was shocked when a waitress pointed to him as having created trouble earlier. He was identified as the one who mauled PO2 Domingo Batan of the Baguio City Police, and divested the latter of his .38 caliber gun with Serial No. K583530 with six live ammunitions in its chamber. The two were brought to the Burnham Park Police detachment where Agngaray mauled them. They were later brought to the Baguio City Police Station where they were fingerprinted. Thereafter, they were detained at the City Jail where PO2 Batan charged them with robbery (through violence) in the Office of the City Prosecutor, docketed as I.S. No. 98-5176.

In the evening of October 11, 1998, the appellant and three others were taken out of their cell and brought to the office of the jail guard where they were placed in a lineup. Of the five persons in the lineup, the appellant was the only one who was fair-skinned. Someone identified him as the one resembling the cartographic sketch of the suspect as drawn by Mendoza.

At about 5:00 to 5:30 a.m. on October 11, 1998, PO2 Batan and another policeman arrived in the house of Barangay Captain Eddie Amwasen of Barangay Ampucao, Itogon, Benguet, seeking help to recover his service

firearm. PO2 Batan admitted to Amwasen that the appellant and Baligan were in jail but were not responsible for the loss of the firearm. Amwasen suggested that the policemen return in the afternoon. Amwasen then conducted an investigation and learned from the appellant's father and brother that it was a certain Baldo Doroteo who was the culprit. Amwasen then ordered Barangay Tanod Peter Besoy to recover the gun from Doroteo. Besoy succeeded and turned over the gun to Amwasen. The latter, in turn, returned the gun to PO2 Batan for which the latter issued a receipt.[10] Batan then informed the investigating prosecutor in I.S. No. 98-5176 that he was withdrawing his complaint against the appellant and Baligan in view of the return of his gun. The investigating prosecutor granted the motion and recommended that the case be deemed withdrawn. The recommendation was approved by the City Prosecutor on October 20, 1998.[11]

After trial, the court rendered judgment convicting the appellant of the crime charged. The decretal portion of the decision reads:

WHEREFORE, the Court finds the accused Henry Alicnas guilty beyond reasonable doubt of the offense of Robbery with Homicide as defined and penalized by Section 9 of Republic Act [No.] 7659 as charged in the Information in conspiracy with two others whose identities and whereabouts are yet unknown, and hereby sentences him to suffer the penalty of reclusion perpetua; to indemnify the heirs of the deceased Hector Bautista the sum of P50,000.00 as indemnity for his death; P152,150.00 as actual damages; and P2,184,000.00 as unearned income; all indemnifications are without subsidiary imprisonment in case of insolvency, and to pay the proportionate costs.

The accused Henry Alicnas, being a detention prisoner, is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

SO ORDERED.[12]

The appellant filed a motion for reconsideration of the decision, but the trial court denied the same.

The appellant now appeals the decision, contending that:

- The trial court gravely erred in convicting accused-appellant of the crime despite the weakness and insufficiency of the prosecution evidence.
- The trial court gravely erred in convicting accused-appellant despite the unreliability of the eyewitness' testimony on the identity of the accused.
- The trial court gravely erred in convicting accused-appellant despite the fact that [the] eyewitness was obviously led by the police officers to pinpoint accused-appellant as the perpetrator and despite serious flaws in the manner by which accused-appellant was identified in the alleged lineup.[13]

The appellant asserts that the court's reliance on Alsagar's testimony in convicting him of the crime charged is misplaced. He contends that Alsagar's testimony is unreliable because it is debilitated by inconsistencies. On direct examination, Alsagar stated that the suspect was from 5'3" to 5'4" tall; however, on cross-examination, he stated that the suspect was from 5'4½" to 5'5" tall. Alsagar even told the police cartographer, Augusto Mendoza, that the suspect was 5'3" tall. The appellant avers that Alsagar's testimony, that the suspect was bearded when he staged the heist and the killing of Bautista, is inconsistent with what he told the cartographer, that the suspect was clean-shaven, as reflected in the cartographic sketch.[14] How Alsagar identified the appellant in the police lineup was also highly irregular. Alsagar connived with the police

investigators to pin criminal liability on the appellant for the crime charged. The appellant points out that the police investigators were so inept in their investigation that they even failed to have photographs taken of the scene of the crime, as well as to lift fingerprints on the driver and passenger's seats of the van.

The contention of the appellant is bereft of merit.

As gleaned from the decision of the trial court, it gave credence and full probative weight to the testimony of Alsagar, that the appellant was the one who robbed him of P5,700, and that he had two other co-conspirators, one of whom shot Bautista. The trial court declared that Alsagar gave a positive, straightforward and consistent account as to who perpetrated the crime charged, and how it was consummated by the appellant, in tandem with his co-conspirators. It took note of the inconsistencies perceived by the appellant on Alsagar's testimony as to the precise height of the appellant and considered them as minor and inconsequential. Thus:

After carefully considering the evidence, the court holds that accused Henry Alicnas is liable for Robbery with Homicide as having conspired and confederated with two others whose identities and whereabouts are yet unknown as charged in the Information for the following reasons:

- There is clear and positive identification made by eyewitness Alsagar of accused Henry Alicnas as one of the three holduppers (sic) who early dawn of September 23, 1998 between 4:00 a.m. to 5:00 a.m., held up Alsagar and Hector Bautista while they were sleeping in their 6-wheeler van in a parking lot near the Mt. Crest Hotel along Legarda Road, Baguio City, and took from them about P5,700.00 at the point of a gun and on the occasion of the said robbery Hector Bautista, the truck driver, was shot by the companion of Alicnas.

Alsagar was an eyewitness of the incident because he was present as the truck helper of the deceased Hector Bautista, the truck driver, and was just beside him in the front seat of the van when the latter was shot to death by the confederate of Alicnas while Alicnas was taking their money and therefore saw the whole incident at close range.

The eyewitness account of Alsagar must be given weight and credence as he saw the incident at close range inside the lighted truck and was face to face with Alicnas and could not possibly forget the face of Alicnas who went up his side to take their money and who is the companion and confederate of the person who shot the truck driver.

Normally, such shocking and harrowing experience are forever etched in the memory of the victim such that in his mind's eye he can remember and will always make an effort to remember the faces of the malefactors.

This is the reason why immediately after the incident Alsagar gave a description of the features of the malefactor who went up his side and a cartographic sketch was made (Exh. A).

- And later when Alicnas was apprehended who bears a resemblance to the cartographic sketch and was placed in a police lineup, Alsagar was called and he spontaneously recognized and identified accused Alicnas as one of the culprits in that robbery with homicide incident particularly the one who went up his side and took the money.

Not only did Alsagar identify Alicnas in the police lineup in the City Jail, but Alsagar repeated said positive identification in the preliminary investigation before the Fiscal and also when he testified in court.

There is, therefore, spontaneity and certainty in the identification of Alicnas by Alsagar as he identified him before the police in a lineup, before the Fiscal in the preliminary investigation, and before the Court when the case was tried.

The discrepancy in height in that Alicnas is 5 feet 6 inches instead of 5 feet 3 inches as stated in the cartographic sketch is too minor a matter to be of any substantial difference.

- The sole testimony of an eyewitness who is reliable, credible and trustworthy can be a basis for conviction.

Considering that the eyewitness is one of the victims since Alsagar was the person from whom the money was taken and his companion was shot on the occasion thereof and so is expected to want the real culprit punished, there is no reason not to believe the identification by Alsagar of Alicnas as one of those who held them up. Alsagar would certainly want the real culprit punished.

More so that there is nothing on record to show that Alsagar, the eyewitness, was actuated by ill motive or hate in imputing a serious offense of robbery with homicide against Alicnas.[15]

The legal aphorism is that the findings of facts of the trial court, its assessment of the evidence of the parties and its conclusions anchored thereon are given high respect, if not conclusive effect, by the appellate court. We have reviewed the records and found no reason to deviate from the findings of the trial court.

Alsagar did narrate to the court how the appellant divested him of P5,700 with the use of a .38 caliber gun, and how one of the appellant's confederates shot Bautista:

q

That person who went up to the truck from the right side door on that early morning of September 23, 1998, how did he look like at that time?

a

Fair complexion, sharp nose, sir.

q

What else?

a

He was wearing a bonnet, sir.

q

What was the color of the bonnet?

a

Black, sir.

q

What else did you notice in his appearance?

a

No more, sir.

q

If you would see that person again, will you be able to identify him?

a

Yes, sir.

q

Will you look around the courtroom and point to that person if he is present in order to identify?

a

That person, sir.

q

Will you step down from the witness stand, approach him and point to him to identify?

LEGAL RESEARCHER:

Witness went down from the witness stand and proceeded to the person seated inside the courtroom and the person pointed to, when asked his name, responded Henry Alicnas.

PROS. VERGARA:

q

Now, when this person whom you identified and gave his name Henry Alicnas went up to your truck at the right side door, what else did you do, if any?

a

He asked me to stand up and asked me [to] raise my hands, sir.

q Was he with a gun?

a Yes, sir.

q What kind of gun?

a .38 caliber, sir.

q How were you able to know that it was [a] caliber .38 gun?

a That gun was traced in the shooting of my driver, sir.

q With what hand was Henry Alicnas holding the gun?

a Right hand, sir.

q And you saw that gun with his right hand?

a Yes, sir.

q What was the appearance of the gun?

a Black, sir.

q What was the length?

a Like this, sir.

COURT INTERPRETER:

Witness demonstrating a length of about six inches.

PROS. VERGARA:

q Aside from noticing the color to be black and length, what else did you notice in the appearance of the gun?

a No more, sir.

q And aside from ordering you to raise your hand, what else did Henry Alicnas do?

a He put his hand on my pocket, sir.

q Aside from that, what else did Henry Alicnas do?

a No more, sir.

q What happened after Henry Alicnas put his hand into your pocket?

a He went down, sir.

q Which hand did he use in putting his hand into your pocket?

a The left hand, sir.

q And to which pocket of yours did he put his hand into?

a The right pocket, sir.

q Was there anything inside your right pocket?

a Yes, sir.

q What was that?

a The [P]5,700.00 meant for our expenses, sir.

q And what happened to that P5,700.00 inside your right pocket?

a It was taken, sir.

q By whom?

a That person who went up to me, sir.

q The one whom you identified and gave his name to be Henry Alicnas?

a Yes, sir.

q What was he doing with the gun on his right hand while he was getting the money from your right pant?

a He was holding it, sir, and after getting the money in my pocket, he went down.

q How was he holding the gun with his right hand? Will you please stand up and demonstrate to us.

a He was holding the gun with his right hand while he was frisking me, sir.

LEGAL RESEARCHER:

Witness demonstrating his right hand was holding the gun while his left hand was below making a movement of searching.

PROS. VERGARA:

q Will you please show us the position of the gun while he was frisking you?

LEGAL RESEARCHER:

Witness stood up with his right hand in front of his abdomen just above the right waist while his left hand was making a movement frisking below.

PROS. VERGARA:

q Were you standing while being frisked by Henry Alicnas?

a Yes, sir.

q How about his two other companions, did you notice what they were doing while Henry Alicnas was holding the gun and frisking you?

ATTY. MOLINTAS:

May we request the witness to speak louder, Your Honor.

COURT:

Alright, you speak louder.

a

After frisking me, he alighted while the two persons at the other side, they were pulling each other and when the door was opened, a shot rang out or a shot was fired, sir.

PROS. VERGARA:

q Before the shot was fired, who were pulling each other?

a My driver and the two persons at that side, sir.

q Aside from your driver and the two persons on the left side were pulling each other, what else were they doing before the shot was fired?

a They ran away, sir.

q Before the shot was fired?

COURT:

Will you repeat the last question.

COURT STENOGRAPHER:

Repeating the last question.

a When they were pulling each other, there was a simultaneous shot and they ran away, sir.

PROS. VERGARA:

q Where did the shot come from?

a At the left side, sir.

q How many shots?

a Only one, sir.

q And after the shot was fired ... I withdraw that.

Did you see who fired the shot?

a No, sir.

q After the shot was fired, what happened next?

a No more, sir.

q What did Henry Alicnas and his two companions do after the shot was fired?

a They ran away, sir.

q To what direction?

a They ran towards the road, sir.

q How was your truck then parked in relation to Mt. Crest Hotel?

a The truck was parked facing the road, sir.

q Parallel with Legarda Road?

a The truck was parked facing the road because the truck was parked in an alley, sir.

q Where was the direction of Mr. Crest Hotel located, in your left or in your right if your truck is parked fronting the Legarda Road?

a Left side, sir.

q And to what direction did these three (3) persons run after the shot was fired?

a Towards the direction of the hotel, sir.

q Towards the direction of Mt. Crest Hotel?

a Yes, sir.

q After you noticed them ran away, what else happened?

a Then I went to call for help, sir.

q Why did you call for help?

a Because my driver was shot, sir.

q How did you know he was shot?

a Because he vomited in front of me, sir.[16]

The lights on the driver's seat of the truck were on.[17] Considering the lighting condition in the truck and the proximity of the appellant to Alsagar, it was easy for the latter to have identified the appellant. In *People v. Padilla*, [18] we held that the weight of the eyewitness account should be on the fact that the witness saw the accused commit the crime and was positive of the latter's physical identification. The appellant's bare denial of the authorship of the crime, without clear and convincing evidence, cannot prevail over the positive, categorical and consistent identification made by Alsagar, pointing to the appellant as a principal of the crime.[19]

Contrary to the appellant's submission, photographs of the situs criminis were taken, showing the victim sprawled in the driver's seat as well as the interior and exterior of the truck.[20]

We agree with the disquisition of the trial court in rejecting the appellant's alibi. We quote the following findings of the trial court:

- The alibi of the accused Alicnas that he was at Ampucao, Itogon, Benguet, at the time of the incident cannot be given credence by the Court and cannot prevail over the positive identification made by Alsagar.

Alibi is one of the weakest defenses that can be resorted to by the accused. To establish an alibi, the accused

must not only show that he was at some other place at the time of the crime but also that he was at such place for so long a time that it was impossible for him to have been at the place where the crime was committed either before or after the time he was at such other place.

The alibi of Alicnas cannot be given credence and must be rejected because:

First, accused Alicnas was positively identified by Alsagar as one of the culprits.

Second, it was shown [that] Ampucao is only about one hour ride by jeep from Baguio. Thus, it is not physically impossible for the accused to be in Baguio at the time of the incident.

Third, the testimony of the teachers Tecah Sagandoy and Geoffrey Kidlo would not help the cause of accused as the incident happened between 4:00 a.m. to 5:00 a.m. of September 23, 1998. And both teachers testified that Alicnas was in his class from 7:30 a.m. to 8:30 a.m. in History and from 8:30 a.m. to 9:30 a.m. in Sociology in Cordillera College on September 23, 1998. Thus, it is still physically possible for Alicnas to be present and participate in the crime between 4:00 a.m. to 5:00 a.m. of September 23, 1998 and thereafter go to his classes at 7:30 a.m. to 9:30 a.m.

Fourth, the testimony of Robert Taynan, the jeepney driver, who said Alicnas was his passenger at 6:00 a.m. of September 23, 1998 from Ampucao to Baguio cannot be given credence as obviously his testimony is dubious. Taynan said he already heard accused Alicnas was involved in the robbery with homicide incident on the same day of September 23, 1998 when it was committed. This shows he does not know what he was talking about. For Alicnas was only apprehended by October 10, 1998 in a mauling case against a policeman and when they noted his striking resemblance to the cartographic sketch of one of the participants in the robbery with homicide case of September 23, 1998, that was only the time Alicnas became a suspect in the incident. So how can Taynan say Alicnas was already a suspect as early as September 23, 1998 and say he heard about it. Obviously, Taynan was less than truthful on the matter.

An alibi must be proved by positive, clear and satisfactory evidence. The reason for this is because alibi can be easily manufactured and concocted. And here, as shown above, it would appear that the alibi of Alicnas is not so clear and satisfactory.[21]

Anent the appellant's civil liability, the trial court failed to order the return of the P5,700 taken by the appellant from Alsagar, P5,000 of which belonged to the Manila Forwarders Corporation. The decision of the trial court shall, thus, be modified. The appellant is ordered to return the amount of P5,000 to the Manila Forwarders Corporation and the amount of P700 to Rogelio Alsagar.[22]

IN LIGHT OF ALL THE FOREGOING, the Decision of the Regional Trial Court of Baguio City, Branch 6, in Criminal Case No. 16110-R is AFFIRMED WITH MODIFICATION. The appellant Henry Alicnas is hereby ordered to pay P5,000.00 to the Manila Forwarders Corporation and the amount of P700.00 to Rogelio Alsagar.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.

Puno, J., (Chairman), on leave.

[1] Penned by Judge Ruben C. Ayon.

[2] Exhibits "H" and "H-1," Folder of Exhibits.

[3] Exhibits "H-2," "H-5" and "H-6," Id.

[4] Exhibit “B,” Records, p. 7.

[5] Exhibit “A,” Folder of Exhibits.

[6] Exhibits “F” to “F-3,” Id.

[7] Exhibit “G,” Id.

[8] Exhibit “S,” Id.

[9] Records, p. 1.

[10] Exhibit “1,” Folder of Exhibits.

[11] Exhibit “2,” id.

[12] Records, pp. 139-140.

[13] Rollo, p. 61.

[14] Exhibit “A,” Folder of Exhibits.

[15] Rollo, pp. 77-79.

[16] TSN, 9 March 1999, pp. 11-17.

[17] Id. at 37.

[18] 362 SCRA 473 (2001).

[19] *People v. Zuniega*, 352 SCRA 403 (2001).

[20] Exhibits “H” to “H-8,” Folder of Exhibits.

[21] Rollo, pp. 80-81.

[22] ART. 104. What is included in civil liability. — The civil liability established in Articles 100, 101, 102 and 103 of this Code includes:

- Restitution;
- Reparation of the damage caused;
- Indemnification for consequential damages.

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