

PEOPLE OF PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERONIMO CENIZA Y CASAS, ACCUSED-APPELLANT.

G.R. No. 144913. September 18, 2003

Ponente: PUNO, J.

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PUNO, J.:

On September 14, 1998, around 6:15 in the evening, SPO1 Joselito Baricuatro, a member of the Tagbilaran City Police Force, Task Force against Ambulant Vendors (TFAV), met his demise when he was suddenly stabbed by an assailant while performing his duty at the corner of C. Marapao and J. Torralba Streets, Tagbilaran City. Eyewitnesses pointed to accused-appellant Geronimo Ceniza y Casas as the killer. Ceniza was charged before the Regional Trial Court of Tagbilaran, Branch 2 with the crime of Murder allegedly committed as follows:

That, on or about the 14[th] day of September, 1998, in the City of Tagbilaran, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with treachery, and intent to kill, did, then and there, willfully, unlawfully and feloniously, with the use of kitchen knife, suddenly stab and hit one Joselito O. Baricuatro while at the vicinity near Shopper's Mart, Tagbilaran City, thereby inflicting upon him the following fatal wound to wit: "ACUTE CARDIO-RESPIRATORY ARREST SECONDARY TO STAB WOUND, (L) ANTERIOR CHEST" which wound directly caused his death, to the damage and prejudice of his heirs in an amount to be proved during the trial of the case.

All acts committed contrary to the provisions of Article 248 of the Revised Penal Code and committed with the qualifying circumstance of treachery.[1]

Trial ensued after Ceniza pleaded not guilty to the charge during the arraignment on October 16, 1998.[2]

After hearing the evidence of the prosecution and the defense, the trial court found Ceniza guilty of Murder and sentenced him to reclusion perpetua. It also ordered him to pay P50,000.00 as indemnity, P40,000.00 for funeral expenses, P10,000.00 for litigation expenses, and P10,000.00 as attorney's fees, plus costs. The dispositive portion of the decision reads:

WHEREFORE, in the light of the foregoing, the Court finds accused Geronimo Ceniza y Casas, guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248, Par. 1 of the Revised Penal Code, as amended by Rep. Act 7659 embraced in the aforequoted information. There being no mitigating nor aggravating circumstance adduced and proven herein, the Court hereby sentences the said accused to suffer the indivisible penalty of Reclusion Perpetua, with the accessory penalties of the law, to indemnify the heirs of SPO1 Joselito Baricuatro the sum of P50,000.00, to pay funeral expenses in the amount of P40,000.00, litigation expenses of P10,000.00; attorney's fees of P10,000.00; and to pay the costs.

The accused who is a detention prisoner is hereby credited in full of the period of his preventive detention.

We affirm.

Lope Estallo, a bus conductor, gave an eyewitness account of the incident. He testified in open court that around 6:15 in the evening on September 14, 1998, he was standing in front of Shopper's Mart at the corner of Marapao

and Torralba Streets when he saw the accused, Ceniza, cross the intersection and walk toward the sidewalk. Ceniza approached SPO1 Baricuatro who was standing two meters away from the witness. Without warning and with all his might, Ceniza thrust a knife on SPO1 Baricuatro's left breast and fled toward the direction of Jacinto St. SPO1 Baricuatro tried to run after him but soon fell after pulling the knife from his breast. The knife dropped to the victim's side. Estallo identified before the court the knife used by the attacker.[3]

Other witnesses corroborated Estallo's testimony.

Jesus Alaba, a worker at Double T Store located across Shopper's Mart, stated that on September 14, 1998, around 6:15 in the evening, while SPO1 Baricuatro and his companions were drinking at said store, he saw Geronimo Ceniza at the front seat of a white jeep parked in front of the store. Ceniza was holding a knife wrapped in a white towel. He noticed that the knife which was the same knife presented in court had a yellowish handle. When SPO1 Baricuatro and his companions left the store, Ceniza slowly alighted from the jeep and walked toward the direction of Marapao St. Alaba later heard from his co-worker that a man had been stabbed.[4]

Emmanuel Torralba, team leader of the Task Force against Ambulant Vendors, also narrated that around 6:00 in the evening on September 14, 1998, SPO1 Baricuatro invited him, together with Alipio Valles Jr. and Edilberto Rosario, for some drinks at Double T Store within the vicinity of Marapao St. where they were posted. After consuming a bottle of pocket size Tanduay Rhum 65, they walked back to their respective posts. Torralba parted with SPO1 Baricuatro as he positioned himself at the intersection to conduct the traffic. Moments later, he heard a girl shout that SPO1 Baricuatro had been stabbed. He rushed to the scene of the incident and found SPO1 Baricuatro lying on the ground, his breast covered with blood. He saw a knife on his right side also covered with blood. Torralba instructed the onlookers to move back. Then he saw a man walking toward the corner of J. Torralba and E. Jacinto Streets. The man resembled Geronimo Ceniza whom they arrested on September 5, 1998 for concealing of deadly weapon. Torralba hailed a multicab to bring SPO1 Baricuatro to the hospital and assigned a member of his team to accompany the victim. Torralba picked up the knife and brought it to the police.[5]

Other members of the Task Force, Rolando Merca and Jaime Buma-at, stated in court that several days before SPO1 Baricuatro was stabbed, on September 5, 1998, Ceniza also assaulted Torralba with a knife. Merca and Buma-at grappled and confiscated the knife from Ceniza and later charged Ceniza with Concealing of Deadly Weapon for which he was imprisoned at the BJMP Cabawan District, Tagbilaran City.[6]

The police officers who investigated the case likewise testified for the prosecution.

PO3 Roy Susvilla, a member of the Tagbilaran City Police, testified that on September 14, 1998, between 6:00 and 7:00 in the evening, while they were having dinner, SPO4 Pacito Baluran informed them that SPO1 Joselito Baricuatro had been stabbed in the vicinity of Shopper's Mart. They proceeded to the scene of the crime to conduct an investigation. They interviewed several witnesses as to the identity of the suspect. Lope Estallo who claimed to have seen the stabbing gave them a description of the assailant and identified him as Geronimo Ceniza. The police brought Estallo to the station and presented to him several suspects, but Estallo did not point to any of them. The police continued their follow-up operation. After a failed hot pursuit operation in Albura, Leyte, the Chief of Police organized a team to track down Ceniza and invite him to the police station for some questioning. The team, together with Estallo, went to Ceniza's residence in Tabalong, Dauis, in Bohol. When Estallo saw Ceniza at his residence, he made a signal to the police officers that he was the man who stabbed SPO1 Baricuatro. The police officers invited Ceniza to go with them to the station. During the questioning, Susvilla learned that Ceniza had just been released from jail in the afternoon of September 14, 1998, around 4:30 p.m. He also noticed an incised wound on Ceniza's right little finger. Asked about its cause, Ceniza told him that he cut himself while

he was gathering some grass for his cow in the morning of September 13, 1998. The police detained Ceniza while they prepared the affidavits and other documents for the filing of a case against him.[7]

Another member of the Tagbilaran City Police, Reinario Añana, testified on the police operations to locate the assailant. He stated that around 7:00 in the evening on September 14, 1998, they heard a report over their radio that SPO1 Joselito Baricuatro had been stabbed. After confirming the report, they proceeded to the crime scene, as directed by the Chief of Police. Upon reaching the area, they met Emmanuel Torralba, a member of the City Task Force against Ambulant Vendors, who told them that he saw a man walk away from the crime scene that resembled Geronimo Ceniza whom they arrested several days ago for possession of bladed weapon. Añana also knew Ceniza because the Task Force turned him over to their unit on September 5, 1998, around 6:00 in the evening, for said offense. Añana and his companions went to the BJMP, Cabawan District where Ceniza was supposedly detained. There they learned that Ceniza had been released from police custody around 4:00 in the afternoon of September 14, 1998. When they returned to the station to report their findings to the Chief of Police, they met Lope Estallo, an eyewitness to the incident. Estallo gave a description of the assailant which fit the description of Geronimo Ceniza. He described the assailant as 5 feet 4 inches in height, with chinito eyes and wavy hair, aged 40 to 50 years. Upon orders of their Chief, Añana and his team went to Ceniza's residence at Tabalong, Dauis, Bohol. Along the way, they met Ceniza's neighbor who told them that he saw Ceniza on his way to Tagbilaran City carrying a traveling bag. They returned to their station and relayed the information to the Chief of Police. The Chief of Police directed them to conduct a hot pursuit operation in Albuera, Leyte, the hometown of Ceniza. They conducted the search in Albuera for two nights and one day but it yielded negative results. The Chief of Police thus called all the operatives and investigators involved in the case to a conference, and after a brief processing of the information they have collected, they concluded that the suspect might still be in Bohol. The Chief of Police thus instructed them to go to Ceniza's residence in Tabalong, Dauis, Bohol, together with the eyewitness, Lope Estallo. Finding him in his residence, the police took him to the police station where Estallo positively identified him as the one who stabbed SPO1 Baricuatro.[8]

The prosecution also presented the report[9] submitted by Alberto G. Pancho, Medical Officer II, City Health Office, Tagbilaran City, who conducted an autopsy on the body of SPO1 Joselito Baricuatro at Funeraria Gomez on September 14, 1998 at 8:00 in the evening.[10] The autopsy report showed the injuries sustained by the victim and the cause of death, thus:

Autopsy report on the Cadaver of (l)ate Joselito Opana Baricuatro, 39 years old, male, married, resident of Uptown Housing Project, Ubuja Dist., Tagbilaran City.

- Stab wound, Left anterior chest 4.7 cm. in length, 5.9 cm. from the left nipple, 3 cm. from mid sternal line, 5th intercostal space.

- Penetrating Left anterior thoracic wall.

- Perforating ventricles of the heart, thru and thru, extending into and perforating the descending portion of the thoracic aorta.

- Hemothorax Left, secondary

- Hemopericardium, secondary

Cause of Death:

Acute Cardio-Respiratory Arrest secondary to Irreversible Hypovolemic shock secondary to stab wound Left anterior chest.

Finally, Saturnina Baricuatro, the widow of SPO1 Baricuatro, testified on the damages she suffered by reason of

her husband's death. She related that when she came home in the evening of September 14, 1998, she received a telephone call from the police asking her to come to the station because there was a problem concerning her husband. The helper then told her that her husband had been stabbed. Mrs. Baricuatro took a multicab and went straight to the city police station. When she reached the station, she was shocked to learn that her husband had died. All she could do was cry. She requested the members of the City Police to act immediately to apprehend her husband's killer. She incurred the following expenses in connection with her husband's funeral and burial: P10,000.00 for the lot in Victoria Memorial Park, P7,000.00 for funeral services at Funeraria Gomez, P16,000.00 for the coffin, P2,000.00 for publication of the message of thanks in Bohol Chronicle, and P8,000.00 for the snacks served during the wake. She also spent around P100,000.00 for the litigation expense and around P15,000.00 for her counsel. [11]

The defense, on the other hand, interposed an alibi. They submit that Ceniza was on his way home with his wife when the crime was committed. Appellant's wife, Sabina Ceniza, their neighbors, Rachelito Tubasis and Anecito Sebuco, supported Ceniza's alibi.

Sabina Ceniza testified that around 2:45 in the afternoon of September 14, 1998, she obtained a release order in favor of her husband who was then detained at the BJMP Cabawan District, Tagbilaran City. She proceeded to the BJMP and presented the release order to the officer on duty who, after examining the order and checking the contents of his bag, allowed Ceniza to go home. Sabina and Geronimo Ceniza headed to Plaza Rizal in front of the cathedral in Tagbilaran City to board a bus going to Tabalong. The bus left at 6:00 in the evening and the spouses reached their home at 6:30. Sabina stated that Ceniza did not leave the house that night. He played with their children while she prepared supper. For the next two days, Ceniza stayed home, tending their goats and cows. Then on September 18, 1998, Sabina was informed by her eldest sister that members of the police force took her husband to Tagbilaran. Sabina went to the police station in Tagbilaran. When she saw her husband, he told her that he would be imprisoned again because he was the suspect in the killing of a police officer.[12]

Rachelito Tubasis and Anecito Sebuco both testified that they saw and had some chat with Geronimo and Sabina Ceniza on the bus going to Tabalong from Tagbilaran.[13]

Antonio Wycoco, Jail Officer I, BJMP, Cabawan District, Tagbilaran City, stated in court that he was the officer on duty at the time of Ceniza's discharge from the BJMP, Cabawan District. He said that it was a standard procedure to check the detainee's belongings before he is released from jail. He said that Ceniza's bag contained t-shirts, short pants and long pants. After his release, Ceniza went home with his wife.[14]

Jerry Nocura, the stepson of Geronimo Ceniza, testified that on September 18, 1998, several police officers searched their house, looking for a knife with an orange handle. They, however, did not find any. The police instead took the blue bag which they found hanging on the guava tree outside the house.[15]

The defense also presented the testimonies of Ricky Gamo and Lope Estallo who both claimed that they saw the assailant and it was not Geronimo Ceniza.

Ricky Gamo, a tricycle driver, testified that on September 14, 1998, around 6:00 in the evening, he went to Shopper's Mart to buy some pattern paper. When he came out of the store around 6:30, he saw that someone had been stabbed. He said that the assailant was a woman, tall, stout and had a big stomach, big breasts and dark complexion. She was wearing a shirt with hood, pants and Islander sandals. After stabbing the victim, she went toward Torralba St. Gamo later saw her board a habal-habal (motorcycle) driven by a man. The habal-habal then sped off toward the Capitol.[16]

Lope Estallo, meanwhile, retracted his previous testimony for the prosecution. He claimed that he made a mistake

in pointing to Ceniza as the attacker because he saw the real killer during the Sandugo festival.[17]

Based on the foregoing testimonies of the witnesses, we find that the trial court did not err in giving more credence to the prosecution evidence. Their testimonies were clear and straightforward and it does not appear that they were driven by improper motives to testify against the appellant.

Appellant's defense of alibi cannot prevail over his positive identification by prosecution witnesses. Alibi is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater weight than the declaration of credible witnesses who testify on affirmative matters. For alibi to prosper, the accused must prove not only that he was somewhere else when the crime was committed but he must likewise demonstrate that it was physically impossible for him to be at the scene of the crime at the time of its commission.[18] In this case, the defense alleged that Ceniza boarded the bus in Tagbilaran City around 6:00 in the evening and he reached his house in Tabalong, Dauis, Bohol around 6:30. The crime happened at about 6:15 in the evening in Tagbilaran City. Thus, the time difference between Ceniza's supposed departure from Tagbilaran and the commission of the crime is negligible that it does not preclude the possibility that he was still in Tagbilaran when the incident happened. Also, it has not been shown that Ceniza's home is so remote that it would be impossible for him to go to the crime scene. It is only a 30-minute ride from Tagbilaran and is accessible by public transport. Appellant's alibi, therefore, failed to satisfy the credibility test. In addition, since appellant's alibi was established only by his relatives and friends, his denial of guilt should be treated with strictest scrutiny.[19]

The defense seeks the acquittal of the appellant based on the recantation of Lope Estallo whom the prosecution presented as eyewitness. Estallo testified for the prosecution on December 1, 1998. He categorically stated that he saw the appellant stab the victim on September 14, 1998 in front of Shopper's Mart at the corner of J. Torralba and C. Marapao Streets in Tagbilaran City. However, several months later, on July 20, 1999, he returned to the witness stand and stated that he made a mistake in pointing to Ceniza as the suspect in the killing, and that he saw the real assailant during the Sandugo celebrations.

We are not persuaded.

Recantations are frowned upon by the courts. A recantation of a testimony is exceedingly unreliable, for there is always the probability that such recantation may later on be itself repudiated. Courts look with disfavor upon retractions because they can easily be obtained from witnesses through intimidation or for monetary considerations. Hence, a retraction does not necessarily negate an earlier declaration.[20] They are generally unreliable and looked upon with considerable disfavor by the courts.[21] Before accepting a retraction made by a witness, one must examine the circumstances surrounding the retraction and possible motives of the witness in reversing his testimony. The records show that Lope Estallo applied for coverage under the witness protection program, but after his application was denied, he retracted his testimony.

We uphold the trial court's explanation why Estallo's first testimony should be given more weight than his subsequent declaration in court. The trial court explained:

Assessing the totality of the evidence as it were, we find Estallo's positive identification of accused Geronimo Ceniza as the assailant who stabbed SPO1 Baricuatro, more credible and convincing. It was disclosed by the witness in his affidavit, barely a few days after the incident when the event was still fresh in his mind.

Estallo was pointed out to the police as one who witnessed the stabbing incident. The police investigated him and he voluntarily signed and swore to an affidavit naming the accused to be the person responsible for the killing of SPO1 Baricuatro. Estallo's affidavit along with the sworn statements of other witnesses prompted the police authorities to file a complaint before the City Prosecutor's Office. The said office in turn, after preliminary investigation found a prima facie case for Murder against Geronimo Ceniza. Estallo could not have

lied when he first testified in Court, considering that his testimony confirmed substantially the facts reflected in his affidavit, executed barely six (6) days from the incident in question. His revelations jibed with the physical facts and circumstances attested by the other State witnesses.

Moreover, the Solicitor General correctly pointed out that Estallo's recantation was highly suspect considering that he admitted that he was revising his testimony because he was angry at the police as it disapproved the financial benefits he applied for under the witness protection program.

The defense also disputes the findings of guilt by the trial court, contending that Ceniza did not have a motive to kill SPO1 Baricuatro as he has not previously met him. Suffice it to say that motive is not an element of the crime that needs to be established to warrant a conviction. Motive gains importance only when the identity of the culprit is doubtful.[22] In this case, the accused was positively identified by an eyewitness who was found to be credible by the court. There being no serious doubt as to the assailant's identity, proof of motive becomes unnecessary.[23]

IN VIEW WHEREOF, the appeal is DISMISSED. The Decision of the Regional Trial Court of Tagbilaran, Branch 2 is AFFIRMED. Accused-appellant is sentenced to suffer the penalty of reclusion perpetua and to pay the heirs of the victim the sum of P50,000.00 as indemnity, P40,000.00 as funeral expenses, P10,000.00 as litigation expenses, and P10,000.00 as attorney's fees, plus costs

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Information, Original Records, p. 1.

[2] Original Records, p. 17.

[3] TSN, December 1, 1998, pp. 6-36.

[4] TSN, December 2, 1998, pp. 6-19.

[5] TSN, January 26, 1999, pp. 7-28.

[6] TSN, February 1, 1999, pp. 5-14; February 15, 1999, pp. 5-13.

[7] TSN, January 25, 1999, pp. 7-29.

[8] TSN, January 27, 1999, pp. 6-24.

[9] Exhibit "E".

[10] TSN, December 2, 1998, pp. 36-37.

[11] TSN, February 16, 1999, pp. 5-32.

[12] TSN, March 2, 1999, pp. 13-29.

[13] TSN, May 3, 1999, pp 5-13; May 10, 1999, pp. 5-10.

[14] TSN, March 2, 1999, pp. 5- 7.

[15] TSN, August 31, 1999, pp. 5-15.

[16] TSN, June 1, 1999, pp. 4-13.

- [17] TSN, July 20, 1999, pp. 9-24.
- [18] People vs. Garcia, 361 SCRA 598 (2001).
- [19] People vs. Bolivar, 352 SCRA 438 (2001).
- [20] People vs. Nardo, 353 SCRA 339 (2001).
- [21] People vs. Remudo, 364 SCRA 61 (2001).
- [22] People vs. Orpilla, 374 SCRA 567 (2002).
- [23] People vs. Abejuela, 375 SCRA 236 (2002).

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