

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO LUSABIO, JR. Y VERGARA, ACCUSED-APPELLANT, TOMASITO DE LOS SANTOS AND JOHN DOE, ACCUSED.

G.R. No. 186119. October 27, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

On appeal before Us is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01462 dated 9 November 2007, which affirmed the decision dated 24 September 2004[2] of the Regional Trial Court (RTC) of Bulan, Sorsogon, Branch 65, in Criminal Cases No. 01-459 and No. 01-464.

The antecedents are as follows:

For the death of Edwin Labini on 12 June 2001, an information was filed on 14 September 2001 before Branch 65 of the RTC of Bulan, Sorsogon, charging accused-appellant Pablo Lusabio, Jr., Tomasito de los Santos and one John Doe with Murder. The case was docketed as Criminal Case No. 01-459. The Information reads:

That on or about 9:00 o'clock in the evening of June 12, 2001, at Barangay Biton, municipality of Magallanes, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another with intent to kill, treachery, evident premeditation, and abuse of superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and stabbed one Edwin Labini, who sustained mortal/fatal injuries that caused his instantaneous death, to the damage and prejudice of his legal heirs.[3]

On 24 September 2001, based on a complaint of accused-appellant Pablo Lusabio, Jr., an information was filed before the same court charging Tomasito de los Santos, alias Guapo, and Ronnie Dig, alias Tabong, with Attempted Murder. The case was docketed as Criminal Case No. 01-464. The felony was allegedly committed as follows:

That on or about June 12, 2001, at more or less 9:00 o'clock in the evening, at Sitio Talisay, Barangay Biton, Municipality of Magallanes, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused while both armed with bolos, conspiring, confederating and mutually helping one another by means of treachery and evident premeditation and abuse of superior strength, did then and there willfully, unlawfully and feloniously commence the commission of the crime of murder directly by overt acts by then and there hacking and stabbing one Pablo Lusabio, Jr., who sustained the following injuries, to wit:

- incised wound 2[nd] and 4[th] finger posterior 1 ½ cm. each;
- incised wound forearm left anterior, m 1/3 #2 4-5 cm each;
- stab wound right thigh proximal 1/3 post. 0/0 middle 1/3 medial 4-5 cm. each;
- incised wound left arm middle 1/3 lateral 3-4 cm. involving muscle;
- stab wound chest over 5[th] and 8[th] ICS post axillary line 1 cm. each non-penetrating;
- incised wound lumb[a]r area left, 1 cm.

but said accused did not perform all the acts of execution which should have produced the crime of murder as a consequence, by reason of causes other than their spontaneous desistance, that is, the injuries sustained by said Pablo Lusabio, Jr., are only slight and not mortal.[4]

In Criminal Case No. 01-459 for murder, when arraigned on 8 October 2001, accused-appellant and Tomasito de los Santos, both assisted by counsel de oficio, pleaded not guilty to the crime charged. During the pre-trial conference of said case, only the fact of death of Edwin Labini was admitted by the parties.

In the case for attempted murder (Criminal Case No. 01-464), Tomasito de los Santos was arraigned on 12 November 2001. With the assistance of counsel, he pleaded not guilty. Ronnie Dig remained at large.

Upon agreement of the parties, the criminal cases were consolidated and heard simultaneously, inasmuch as they happened on the date involving the same persons and under similar circumstances.

In Criminal Case No. 01-459 (Murder), the prosecution presented four witnesses, namely: Doris Labini,[5] Dr. Irene V. Ella,[6] Jose Labini[7] and Elsie Gocoyo.[8]

Doris Labini, wife of the victim - Edwin Labini - testified that at around 9:00 p.m. of 12 June 2001, she was in their living room cleaning their house, while Edwin was busy cooking in the kitchen in preparation for the barrio fiesta the following day. Thereafter, Tomasito de los Santos arrived and conversed with Edwin. Tomasito and Edwin left and casually walked away. Nervous and apprehensive because her husband was fetched and she did not know where he was going, Doris followed the two. When Edwin and Tomasito arrived at the weighing post near the gate of the house of Romeo de los Santos, the brother of Tomasito, the latter left Edwin for about two minutes. Doris stopped at a distance of about eight meters away from the two. She explained that she had the habit of following her husband but not asking him where he was going. When Tomasito returned to Edwin, accused-appellant Pablo Lusabio, Jr. appeared. The latter talked to Edwin and, all of a sudden, stabbed him with a ten-inch bladed weapon. Doris ran away, and so did Tomasito. Upon seeing her husband being stabbed by accused-appellant, her first reaction was to seek the assistance of her husband's brother, Jose Labini. After seeking assistance, she returned to the place where her husband was stabbed and learned that he was already dead.

Dr. Irene V. Ella, Municipal Health Officer of Magallanes, Sorsogon, conducted a post-mortem examination on the cadaver of Edwin Labini at 8:30 a.m. of 13 June 2001. Her findings[9] were as follows: (1) body in a state of rigor mortis; (2) stab wound, right anterior thorax at the level of the 10[th] rib, 3 x 2 inches with no penetration to the thoracic cavity; (3) fatal stab wound, right lateral thorax at the level of the 12[th] rib with penetration to the thoracic cavity, with injury to the lungs. She concluded that the cause of death was irreversible shock secondary to massive bleeding due to fatal stab wound at the right lateral thorax. If timely medical attention was given, she said the victim would have possibly survived.

Jose Labini, brother of the victim, testified that at 9:00 p.m. of 12 June 2001, he was at the house of his late brother, Edwin Labini, asking for some viand from the latter. Edwin was busy preparing food at the kitchen when Tomasito de los Santos arrived. Jose was three meters away from his brother at that time. De los Santos was fetching Edwin, because they would be having a drinking spree. At first, Edwin was hesitant to go with De los Santos, but eventually agreed. Later, Jose heard Doris Labini shout that Edwin had been stabbed. He immediately ran outside to know what was happening. On his way to where his brother was, he met Tomasito, who told him that accused-appellant stabbed Edwin. Jose tried to resuscitate his brother, but the latter was already dead. Jose said he did not see the stabbing of Edwin, because the former was not present when it happened.

Elsie Gocoyo, sister of the victim, testified that at around 9:00 p.m. of 12 June 2001, she was in her house when she was informed that something happened to her brother Edwin Labini. She rushed to her brother's house, where she found him already dead. Upon learning that her sister-in-law Doris Labini and Tomasito de los Santos knew

of the incident, she immediately went to Pon-od, Bulan, Sorsogon to follow Tomasito at the house of his sister, Rosa de los Santos. Elsie and Tomasito had a conversation wherein the latter asked for forgiveness, for it was he who had fetched Edwin at his house per instruction of Pablo Lusabio, Jr. She said Tomasito demonstrated to her how Pablo had stabbed Edwin.

Elsie testified they spent around P46,635.00, which included P2,500.00 for the cemetery and P20,000.00 for funeral services.

For the defense, Dr. Antonio L. Lopez,[10] Medical Specialist II at the Sorsogon Provincial Hospital, testified that on 25 June 2001, he conducted a medical examination on the person of Pablo Lusabio, Jr. He issued a Medical Certificate[11] embodying the six wounds he found on accused-appellant. The wounds were as follows: (1) incised wound, 2[nd] & 4[th] finger posterior, 1½ cm. each; (2) incised wound, forearm, left anterior, M 1/3 #2, 4-5 cm. each; (3) stab wound, right thigh, proximal, 1/3 post. & middle, 1/3 medial, 4-5 cm. each; (4) incised wound, left arm, middle, 1/3 lateral, 3-4 cm.; involving muscle; (5) stab wound, chest, over 5[th] and 8[th] ICS post. axillary line, 1 cm. each, non-penetrating; and (6) incised wound, lumbar area, left, 1 cm. He explained that a sharp instrument could have caused the wounds, and that the relative position of the assailant to the victim was at the back or at the side. He added that Lusabio was hospitalized for ten days. He disclosed that even if no medical attention was given, Lusabio would not die. He also said that the wounds could also have been self-inflicted.[12]

Accused-appellant Pablo Lusabio, Jr.[13] took the witness stand. His version of the incident is as follows: On 12 June 2001, he was in his house at Sitio Talisay, Barangay Biton, Magallanes, Sorsogon. He decided to go to the house of Bugoy Gelilio to inform the latter that the former could not stand as the godfather of Bugoy's son, because accused-appellant could not attend the baptism, for it coincided with the fiesta of their place. As Bugoy was not in his house, Lusabio told one of Bugoy's visitors that he (Lusabio) could not attend the baptism of his son the following day, because it was their barangay fiesta, and to just get someone else to stand in his place. Lusabio proceeded home. Along the way, Tomasito de los Santos suddenly appeared and, using a machete, hacked him, hitting him on the left arm. This was followed by a stabbing blow from Ronnie Dig who used a ginunting. Lusabio tried to run, but he fell down. When he tried to stand, he was again stabbed by Ronnie Dig, hitting him on the right thigh. As Ronnie Dig was about to stab him again, Edwin Labini yelled at him and De los Santos to stop. The two then turned their attention to Edwin. Lusabio took this opportunity to escape by crawling through a fence made of split bamboo. He crawled to a grassy place, where he fainted. He regained consciousness at around 4:00 a.m. the next day and went home, but he fainted again upon reaching the yard of his house. He regained consciousness after his siblings and parents attended to him. He was later brought to the Sorsogon Provincial Hospital, where he learned that Edwin Labini died in the same incident at around 9:00 p.m. of 12 June 2001.

Accused-appellant denied the statement of Doris Labini that he was the one who stabbed Edwin. He claimed that if it were true that Doris was present during the stabbing incident, she would have also seen him being stabbed and hacked by Tomasito de los Santos and Ronnie Dig. Accused-appellant added that the only motive he could think of why Tomasito and Ronnie attacked him was that the latter two were friends of Larry de Luna, who had filed a case against him for frustrated homicide, which case had been terminated after he (Lusabio) had pleaded guilty to the charge, and that he had already applied for probation. He said he did not know who killed Edwin Labini.

In Criminal Case No. 01-464 (Attempted Murder), private complainant Pablo Lusabio, Jr.,[14] Dr. Antonio Lopez[15] and Ricardo Cabrera[16] took the witness stand.

Dr. Antonio Lopez testified anew that he issued a Medical Certificate to Pablo Lusabio, Jr., whom he treated from 13 to 23 June 2001. The six wounds of Lusabio were not fatal, and even if no timely medical attention was given to him, the worst that he would have suffered was infection. Dr. Lopez theorized that the assailant was in front of Lusabio, and that the instrument used was a bladed instrument, probably a knife or a machete. He added that since the wounds were incised and stab wounds, it was possible that they were inflicted by two assailants. However, he did not discount the possibility that these wounds may have been caused by one bladed instrument and by one perpetrator. As to whether the wounds were self-inflicted, he said the injuries at the back could not have been self-inflicted.[17]

Ricardo Cabrera testified to corroborate the statement of Lusabio that Tomasito de los Santos and Ronnie Dig attacked Lusabio, and that Edwin Labini was assaulted when the latter came to Lusabio's aid. Cabrera said at around 9:00 p.m. of 12 June 2001, he was on his way to the dance hall when he accidentally saw Pablo Lusabio, Jr. being hacked by Tomasito de los Santos and Ronnie Dig. The place was lighted. When he saw Lusabio being hacked by Tomasito de los Santos, the victim was lying prostrate on the ground, and Ronnie Dig was also stabbing him. Cabrera said that Edwin Labini was also present, but was sitting on a fence still alive. He heard Edwin utter something, which the former did not understand, because he had run away very fast. He did not notice if Edwin was injured. Overcome by fear after having witnessed the hacking of Lusabio, Cabrera ran toward the direction of the dance hall. He did not report the hacking incident to the authorities because he was still afraid. Though familiar with the Lusabios, he did not inform any of the family members that Pablo had been injured that night by Tomasito de los Santos and Ronnie Dig. Bothered by his conscience, Cabrera volunteered to be a witness in this case.

As private complaint, Pablo Lusabio testified, reiterating the statements he made in Criminal Case No. 01-459. He said he knew Edwin and Doris Labini, because they came from the same barangay. He claimed that Edwin Labini and Tomasito de los Santos were not close friends, but only acquaintances. He had never seen them drink liquor together.

For the defense, the witnesses were Tomasito de los Santos,[18] Edgar Apuya[19] and Jose Labini.[20]

Accused Tomasito de los Santos testified that he personally knew Edwin Labini, who died on 12 June 2001, because they were neighbors. Before the stabbing incident, he and Edwin wanted to have a drinking session in the house of Tomasito's brother in Sitio Talisay, Biton, Magallanes, Sorsogon. Edwin told him to go ahead and prepare the pitcher, glasses and other things they would need for their drinking session. While in his brother's house, Tomasito heard Doris Labini shout "Enough of that." He went out of the house to see what was happening. At four meters away, he saw Pablo Lusabio, Jr. stab Edwin Labini. Lusabio then ran away, while Edwin fell to the ground. Instead of going to the house of the Barangay Captain, which was nearer, Tomasito immediately proceeded to the house of Edwin's brother, Jose Labini, to inform him that Pablo Lusabio, Jr. had stabbed the victim. Tomasito, however, met Jose along the way, when the latter was coming out of his mother's house. Tomasito informed Jose that Edwin had been stabbed by Pablo Lusabio, Jr. Tomasito then went to the house of Barangay Captain Edgar Apuya and informed him that Pablo Lusabio, Jr. had stabbed Edwin Labini. Thereafter, Tomasito met a man armed with a bladed weapon, who allegedly told him, "You're one of them" and then chased him up to the dance hall. Tomasito thought of going back to his brother's house at Sitio Talisay, where the stabbing of Edwin Labini had occurred, but decided to go to the house of his other sibling (Rose de los Santos) at Barangay Pon-od, J. P. Laurel, Bulan, Sorsogon. There, he met Elsie Gocoyo, sister of Edwin Labini, who allegedly asked Tomasito why he escaped. He explained he just wanted to be safe from the person who chased him.

Tomasito could not figure out why he was impleaded in the murder case, when he even volunteered to be a

prosecution witness in favor of the Labinis, considering that he was a witness to the killing of Edwin Labini by Pablo Lusabio, Jr. He explained that he did not come to the aid of Edwin Labini when the latter was stabbed by Lusabio, because he was unarmed while Lusabio was armed with a bladed weapon.

Tomasito disclosed that on the fateful night, he was about to buy liquor when Edwin, who was inside his house, saw him and asked where he was going. When he informed Edwin that he was going to buy liquor, Edwin told him not to buy anymore, because he (Edwin) had liquor in his house. Edwin gave Tomasito liquor, and they proceeded to the house of Romeo de los Santos, Tomasito's brother. Before they could reach Romeo's house, Edwin Labini felt the call of nature and urinated in a vacant lot and told Tomasito to go ahead and prepare the things for their drinking session. While preparing those things in his brother's house, Tomasito heard Doris Labini shouting. When he went outside, he saw Pablo Lusabio, Jr. stab Edwin Labini.

On the early morning of 13 June 2001, Tomasito, together with his sister Rose, Elsie Gocoyo, Erwin Labini and two other companions, went to the house of a Barangay Kagawad at Biton, Magallanes, Sorsogon to give his statement before going to the Magallanes Police Station. Thereafter, the Barangay Captain whom they met at the seashore accompanied them to the police station. Tomasito said he went with them because he did not do anything wrong.

Edgar Apuya, Barangay Captain of Biton, Magallanes, Sorsogon, testified that on the evening of 12 June 2001, while he was in his house watching a VCD movie, he heard Tomasito de los Santos shouting that Edwin Labini had been stabbed by Pablo Lusabio, Jr. Upon being informed by Tomasito of the stabbing incident, Edgar left. Apuya, together with two of his barangay tanods, went to the place of the incident, which was near his house, and found Edwin Labini already injured.

Apuya disclosed that Lusabio surrendered to him the following day and the former immediately turned him over to the police. Edgar observed that Lusabio had injuries when the latter surrendered to him.

Jose Labini, brother of Edwin Labini, testified he came to know about the death of his brother from Tomasito de los Santos. The latter ran to him and told him that his brother was stabbed by Pablo Lusabio, Jr. and that he was already dead. He said he did notice Tomasito de los Santos carrying anything when he met him.

Pablo Lusabio, Jr.[21] took the witness stand anew as a rebuttal witness. He denied stabbing Edwin Labini and said that if it were not for the latter, he would have been killed. Lusabio said Edwin Labini tried to pacify and stop Tomasito de los Santos and Ronnie Dig from hacking him. He did not see the actual stabbing of Edwin Labini. He denied having any bladed weapon at the time of the incident; otherwise, he would have injured Tomasito de los Santos when the latter was hacking him. He also denied inflicting the wounds that he sustained.

Lusabio bared that a certain Melda, sister of Tomasito de los Santos, visited him in jail and offered him money so he would drop this case against Tomasito. Pablo told Melda that he would not drop the case, because Tomasito had hacked him. Pablo then informed his sister about the offer and instructed her to relay the same to his counsel. It was only now that he divulged the matter, because he did not know the process of revealing the same, and he had no opportunity to do so.

The next rebuttal witness was Emily Tan,[22] Barangay Secretary of Barangay Biton, Magallanes, Sorsogon, who revealed that a case had been blotted in the barangay against Edwin Labini. The complainant therein was the Barangay Captain who had been verbally maligned by Edwin Labini. Said case, which was referred to the police, was settled amicably when Edwin Labini apologized to the Barangay Captain and promised not to commit the same wrong again.

As sur-rebuttal witness, Imelda Trongcoso,[23] sister-in-law of Tomasito de los Santos, denied she went to see

Pablo Lusabio, Jr. in jail to offer him money so he would drop the case against Tomasito de los Santos. She said she did not know Lusabio, and the first time she saw him was in court.

In its decision dated 24 September 2004, the trial court, in Criminal Case No. 01-459, found accused-appellant guilty beyond reasonable doubt of murder, while Tomasito de los Santos was acquitted of the charge. As to Criminal Case No. 01-464, Tomasito de los Santos was likewise acquitted of attempted murder. The decretal portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused PABLO LUSABIO, JR. GUILTY beyond reasonable doubt of -

a) MURDER in Criminal Case No. 01-459, and hereby sentences him to suffer the indivisible penalty of RECLUSION PERPETUA, regardless of the presence of mitigating circumstance of voluntary surrender (Art. 63, R.P.C.); to indemnify the heirs of Edwin Labini in the amounts of Php20,000.00 as actual or compensatory damages; Php50,000.00 as civil indemnity for his death; and another Php50,000.00 as moral damages, and to pay the costs.

b) As regards the other accused TOMASITO DE LOS SANTOS, for failure of the prosecution's evidence to establish his guilt beyond reasonable doubt in Crim. Case No. 01-459 and Crim. Case No. 01-464, he is hereby ordered ACQUITTED of the two charges filed against him in both cases. Without pronouncement as to costs.

The period of preventive imprisonment already served by accused PABLO LUSABIO, JR. shall be credited in the service of his sentence pursuant to the provisions of Art. 29 of the Revised Penal Code, as amended.

The case against the other accused Ronnie Dig is hereby ordered temporarily archived pending his arrest.[24]

In convicting Pablo Lusabio, Jr. of murder, the trial court found prosecution witness Doris Labini, wife of the victim Edwin Labini, to be credible. Her testimony relative to the stabbing of her husband was candid, straightforward and consistent with the substance of her Sworn Statement and declaration during the preliminary investigation. The trial court ruled that her credibility was not impaired by her relationship with the victim. No ill motive was ascribed to her in testifying against Pablo Lusabio, Jr. and Tomasito de los Santos, who were both known to her, being her barrio mates. Her positive identification of Pablo Lusabio, Jr. as her husband's assailant was not doubted, as she was around eight meters away from her husband during the attack, and the place was lighted. Doris Labini's running away to seek the help of her brother-in-law instead of shouting for help from neighboring houses near the crime scene did not affect her credibility, since such action was not unusual for someone faced with a startling occurrence.

As to accused-appellant Pablo Lusabio's defenses of denial and alibi, the trial court did not find them convincing to exonerate him from the murder charge, in light of the positive identification made by the victim's wife that Pablo was the one who had assaulted the late Edwin Labini. His identification as the attacker was made not only by the victim's wife, but also by Tomasito de los Santos. Furthermore, the trial court did not give much weight to the testimony of Ricardo Cabrera corroborating the testimony of Lusabio that the latter was attacked by Tomasito de los Santos and Ronnie Dig. The trial court found their testimonies to be specially tailored to suit each other.

As to Tomasito de los Santos, the trial court ruled that he had no participation whatsoever in the stabbing of Edwin Labini. The trial court declared that the prosecution failed to establish beyond reasonable doubt that the killing of Edwin Labini was part of a concerted plan or agreement between Pablo Lusabio, Jr. and Tomasito de los Santos. Although Tomasito de los Santos was the one who fetched Edwin Labini, it was not shown that unity of purpose and coordinated acts on the part of the two were exhibited. Never was it shown that Tomasito de los Santos was armed at any time before, during and after the attack on Edwin Labini. His mere presence in the crime scene cannot show conspiracy with Pablo Lusabio, Jr. or the basis of liability as an accomplice.

The trial court declared that treachery attended the killing of Edwin Labini explaining that although the attack was frontal, same was so sudden and unexpected giving the victim no opportunity to defend himself. It did not appreciate the presence of the aggravating circumstance of evident premeditation and superior strength. However, it appreciated in favor of Lusabio the mitigating circumstance of voluntary surrender.

As regards the case for attempted murder, the trial court found the case filed by Pablo Lusabio, Jr. against Tomasito de los Santos and Ronnie Dig to be "a product of an afterthought" - a ploy to divert Lusabio's criminal responsibility for the killing of Edwin Labini. The trial court found dubious Lusabio's failure to give his statement before the Barangay Captain when he surrendered the following morning denying his participation in the killing of Edwin Labini and pointing to Tomasito de los Santos and Ronnie Dig as the real killers. The trial court also found questionable his failure to immediately give said statement to the police investigators when he was turned over to them, and the lapse of one month before the case for attempted murder was filed.

The trial court found the corroborating testimony of alleged eyewitness Ricardo Cabrera absurd. It said that Cabrera who was afraid to tell the barangay authorities what he saw that fateful night would now suddenly volunteer to testify in behalf of Pablo Lusabio, Jr. It likewise found incredible his testimony that Lusabio, despite lying prostrate on the ground while Tomasito de los Santos and Ronnie Dig, who were armed with a machete and a ginunting, were ganging up on him, suffered only slight wounds that would not cause death even without immediate medical attention.

Despite finding that Pablo Lusabio, Jr. suffered minor injuries on the night of 12 June 2001, the trial court found the prosecution's evidence insufficient to show that Tomasito de los Santos had anything to do with the infliction of said wounds. However, it said that it was not discounting entirely the probability that Ronnie Dig, the other accused who had remained at large, could be the real culprit who inflicted the wounds on Pablo Lusabio, Jr.

On 21 October 2004, accused-appellant filed a motion for reconsideration, praying that the decision be reconsidered and/or modified by acquitting him of Murder in Crim. Case No. 01-459 and finding Tomasito de los Santos guilty in Crim. Case No. 01-464.[25]

In its Order dated 27 January 2005, the trial court denied the motion for reconsideration.[26] Thus, on 3 February 2005, accused-appellant filed a Notice of Appeal.[27]

The trial court, per Order dated 23 February 2005, gave due course to the notice of appeal and ordered the Clerk of Court to elevate the records of the case to the Court of Appeals.[28]

The appeal of accused-appellant was docketed as CA-G.R. CR. HC No. 01462. Appellant's brief contained the following assignment of errors:

- THAT THE HONORABLE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF MURDER DESPITE THE INSUFFICIENCY OF THE EVIDENCE OF THE PROSECUTION.
- THAT THE HONORABLE COURT A QUO ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS DORIS LABINI, WHO IS THE VICTIM'S WIFE, THE VICTIM'S SIBLINGS, AND OF THE ACCUSED TOMASITO DE LOS SANTOS WHO HIMSELF ADMITTED HAVING FETCHED THE VICTIM AND IMMEDIATELY FLED THE CRIME SCENE AFTER THE INCIDENT.
- THAT THE HONORABLE COURT A QUO ERRED IN NOT CONSIDERING THE TESTIMONY OF ACCUSED-APPELLANT AND THE LATTER'S WITNESSES WHICH ARE MORE IN ACCORD WITH TRUTH, HUMAN EXPERIENCE, LOGIC AND COMMON KNOWLEDGE.

On 9 November 2007, the Court of Appeals rendered its decision affirming the decision of the trial court.

Aggrieved, accused-appellant appeals to this Court via a Notice of Appeal.[29] Said notice of appeal having been filed within the reglementary period, the same was given due course and the records of the case elevated to us.[30]

In a resolution dated 15 April 2009, the parties were notified to file their respective supplemental briefs, if they so desired, within 30 days from notice.[31] Appellee manifested that it was no longer filing a supplemental brief and was adopting its appellee's brief, the same having adequately discussed appellant's guilt of the crime charged, and there being no new issues material to the case, which were not elaborated therein.[32] Accused-appellant filed his Supplemental Brief on 30 July 2009.[33]

It is the contention of accused-appellant that the testimonies of the prosecution witnesses, three of whom were related to the victim, should not have been given full credence by the lower courts. He further tries to discredit one of them, Doris Labini, the wife of the victim, who allegedly witnessed the stabbing of Edwin Labini, arguing that her testimony was inconsistent with that of Tomasito de los Santos, who supposedly was another witness to the murder. In support of his defense of denial, accused-appellant claims that testimonies of Ricardo Cabrera, who corroborated his claim that Tomasito de los Santos and Ronnie Dig attacked him, and that Edwin Labini was assaulted when the latter came to his aid, and that of Dr. Antonio Lopez, who said that the wounds accused-appellant sustained on his back were not self-inflicted, should not have been disregarded.

Accused-appellant brands Doris Labini as a biased witness, thus unreliable, because she was the wife of Edwin Labini. The fact that she was the wife of the victim did not necessarily make her a partial witness. It is well-settled that mere relationship of a witness to the victim does not impair the witness' credibility. On the contrary, a witness' relationship to a victim of a crime would even make his or her testimony more credible, as it would be unnatural for a relative who is interested in vindicating the crime, to accuse somebody other than the real culprit.[34] A witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color to his statements, or to suppress or to pervert the truth, or to state what is false.[35] To warrant rejection of the testimony of a relative or friend, it must be clearly shown that, independently of the relationship, the testimony was inherently improbable or defective, or that improper or evil motives had moved the witness to incriminate the accused falsely.[36]

The relationship of Doris Labini to the victim, per se, does not impair her credibility. We, like both lower courts, are convinced that she is telling the truth. Moreover, the defense failed to show any evidence that Doris Labini had improper or evil motives to testify falsely against accused-appellant. This being the case, her testimony is entitled to full faith and credit.

The defense tries to further destroy the credibility of Doris Labini by arguing that her testimony is not consistent with that of Tomasito de los Santos. According to accused-appellant, Doris Labini said Tomasito de los Santos was already present when she saw her husband being stabbed. This declaration, according to accused-appellant, did not conform to the testimony of Tomasito de los Santos that the latter went out of his brother's house after hearing Doris Labini shout "Enough of that," after which Tomasito saw Pablo Lusabio, Jr. stab Edwin Labini, causing the latter to fall to the ground.

Such inconsistency, which we consider to be minor or trivial, will not impair Doris Labini's credibility. This Court has ruled that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declarations, their veracity, or the weight of their testimonies. Such minor flaws may even enhance the worth of a testimony, for they guard against memorized falsities.[37] Trivial inconsistencies do not rock the pedestal upon which the credibility of the witness rests, but

enhance credibility, as they manifest spontaneity and lack of scheming.[38] It is not to be expected that the witness will be able to remember every single detail of an incident with perfect or total recall.[39] Furthermore, it is to be noted that Tomasito de los Santos is one of the accused in the murder case, while Doris Labini is a prosecution witness. We, therefore, cannot simply discredit Doris Labini because of a statement coming from the mouth of an accused.

In the case at bar, Doris Labini positively identified Pablo Lusabio, Jr. as the one who stabbed her husband. Such declaration was corroborated by the testimony of Tomasito de los Santos that it was, indeed, Lusabio who inflicted the stab wounds on Edwin Labini. Doris Labini was eight meters away from her husband when the latter was stabbed by Lusabio. Aside from this, the crime scene was well-lighted, making it easy for her to identify Lusabio as the perpetrator.

Accused-appellant interposes the defense of denial. He denies participation in the crime, claiming that it was Tomasito de los Santos and Ronnie Dig who attacked him, and that Edwin Labini was assaulted when the latter came to accused-appellant's aid. In support of such claim, Ricardo Cabrera took the witness stand.

Both lower courts found Cabrera's testimony incredible. So do we. The trial court aptly explained why it did not give credence to Cabrera's testimony.

Indeed, we find it absurd, that an alleged eyewitnesses such as Ricardo Cabrera, who was even afraid to tell the barangay authorities of Brgy. Biton, Magallanes, Sorsogon, of what he saw on that evening of June 12, 2001 at around 9:00 o'clock, despite the fact that the alleged incident happened just near the house of the barangay captain, would suddenly come out into the open as bold as a lion and volunteer to testify for and in behalf of accused Pablo Lusabio, Jr. It must [be] emphasized that said witness instead of reporting the incident to the barangay captain of Biton, ran towards the dance hall and spent the whole night there dancing and enjoying himself as if nothing unusual happened. He did not even bother to tell the family of Pablo Lusabio, Jr. with whom he is accordingly familiar about what happened to Pablo in the hands of a certain Tomasito de los Santos and Ronnie Dig. He kept the incident that he saw to himself for more than a month, and it was only after his conscience bothered him that he volunteered himself to the counsel of the accused who did not even seek his services. How he came to know the counsel of the accused Pablo Lusabio, Jr. has remained a mystery. The court is likewise in a quandary why only a highlander such as Ricardo Cabrera volunteered to testify for accused Pablo Lusabio, Jr., when there are supposed many people around at the time of the alleged incident. It being the eve of the barangay fiesta. Specially, so, that the alleged incident happened just near the place of the barangay captain of Biton.

Moreover, a comparison of the substance of the testimonies of accused Pablo Lusabio, Jr. and that of Ricardo Cabrera would lead one to the inevitable conclusion - THAT THEY WERE SPECIALLY TAILORED TO SUIT ONE ANOTHER.

Pablo Lusabio, Jr. testified - that on his way home, he was waylaid by the duo of Tomasito de los Santos and Ronnie Dig. Tomasito de los Santos suddenly appeared and hacked him hitting him on the left arm. This was followed by a stabbing blow from Ronnie Dig. He tried to run, but he fell down. When he tried to get up, he was again stabbed by Ronnie Dig hitting him on the right thigh. Just when Ronnie Dig was about to stab the witness again, Edwin Labini shouted at Ronnie dig to stop. Tomasito turned his attention this time to Edwin Labini. The witness took this opportunity to crawl through a fence made of bamboo splits and escaped.

The version of Ricardo Cabrera is this - he was on his way to the dance hall from their house, when he accidentally saw Pablo Lusabio, Jr. being hacked by Tomasito de los Santos and Ronnie Dig using a machete. Edwin Labini was also present, but he was seated on the fence and still very much alive. Pablo Lusabio, Jr. was lying prostrate on the ground while being hacked by Tomasito de los Santos and being stabbed likewise by Ronnie Dig. He heard Edwin Labini seated on the fence uttered something, but he failed to understand what he

was saying because he ran very fast. He did not notice if Edwin Labini was injured.

From the two versions it can readily be deduced, that it was only after the deceased Edwin Labini shouted at Ronnie Dig to stop and Tomasito turned his attention to Edwin Labini, that accused Pablo Lusabio, Jr. was able to crawl through a bamboo fence and escaped. Almost of the same substance was the tenor of the testimony of Ricardo Cabrera, when he stated that he heard the deceased Edwin Labini who was seated on the fence uttered something. He failed to understand it, however, because he ran very fast. Both versions were tailored to show, that deceased Edwin Labini was still alive when the two of them left the scene of the incident, thus, implying that the persons responsible for this death were no other than the accused Tomasito de los Santos and Ronnie Dig.

If that were really true, why would the duo of Tomasito de los Santos and Ronnie Dig suddenly turn their ire on the deceased just because he shouted at them to stop, if their real intention was to kill the accused Pablo Lusabio, Jr. It must be borne in mind that the late Edwin Labini was already there present seated on the fence and watching the duo ganging up on Pablo Lusabio, Jr. as per version of Ricardo Cabrera, even before the latter chanced upon the incident. Thus, implying that the three were in the company of one another and not against each other. Furthermore, considering that accused Pablo Lusabio, Jr. was lying prostrate on the ground, while the duo of Tomasito and Ronnie who were armed with a "machete" and a "ginunting" type of bolo were ganging up on him, it was surprising to note, that the former only suffered slight injuries. Which injuries as described by the doctor were not serious and could not cause the death of the patient even without immediate medical attention. Finally, why did Pablo Lusabio, Jr. not give a statement before the barangay captain during his surrender the following morning, denying his participation in the killing of Edwin Labini, and pointed to Tomasito de los Santos and Ronnie Dig as his attackers and the real killers of Edwin Labini? Why did he not give such a statement to the police investigators, immediately after his person was turned over by the barangay captain into their custody to show his innocence? Why did it took him more than a month to file such a criminal complaint against Tomasito de los Santos and Ronnie Dig? All these nagging questions and the questionable circumstances that lead to the filing of Criminal Case No. 01-464 (For: Attempted Murder), have inevitably raised a reasonable doubt in the mind of the court. Particularly, so that they were not satisfactorily explained by prosecution's evidence.[40]

To be believed, denial must be buttressed by strong evidence of non-culpability. Otherwise, it is purely self-serving and without merit.[41] A denial unsubstantiated by clear and convincing evidence is negative, self-serving, merits no weight in law, and cannot therefore be given greater evidentiary value than the testimonies of credible witnesses who testify on affirmative matters.[42] Greater weight is given to the categorical identification of the accused by the prosecution witnesses than to the accused's plain denial of participation in the commission of the crime.[43] Indeed, denial cannot prevail over the positive testimonies of prosecution witnesses who were not shown to have any ill motive to testify against accused-appellant. Absence of improper motives makes a testimony worthy of full faith and credence.[44] In this case, there being no strong and credible evidence adduced to overcome the testimonies of Doris Labini and Tomasito de los Santos pointing to accused-appellant as the culprit, no weight can be given to his denial.

In another attempt at exoneration, accused-appellant argues that the testimony of Dr. Antonio Lopez, the doctor who treated his wounds, should not have been disregarded, because it substantiates his (accused-appellant's) claim that it was he who was attacked by Tomasito de los Santos and Ronnie Dig; and that when Edwin Labini tried to pacify De los Santos and Dig, the two turned their ire on him. The physician's testimony, he said, showed that the wounds he sustained were not self-inflicted.

We fully agree with the trial court that this declaration of Dr. Lopez will not free accused-appellant from criminal liability. The trial court never denied that accused-appellant suffered minor injuries on the night Edwin Labini was killed. However, it ruled that the infliction of the wounds on him can be interpreted to pertain to another

incident different from that which led to the death of Edwin Labini. It stressed that said incident would not exonerate accused-appellant completely from criminal liability, as he had been positively identified as the attacker of Edwin Labini. In fact, the trial court did not discount entirely the possibility that the other accused Ronnie Dig, who has remained at large, could have been the real culprit who had inflicted the wounds on the person of accused-appellant.

All in all, we find the evidence of the prosecution to be more credible than that adduced by accused-appellant. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.[45]

The Court of Appeals further affirmed the findings of the RTC. In this regard, it is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court. We find no compelling reason to deviate from their findings.

Finally, accused-appellant submits that if ever he committed a crime, he merely committed homicide. He maintains that the prosecution failed to prove that he deliberately and consciously adopted a particular mode of attack in order to eliminate the risk to his person from any defense that Edwin Labini might offer.

The lower court was correct in appreciating treachery in the commission of the crime. There is treachery when the following essential elements are present, viz: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, methods or forms of attack employed by him.[46] The essence of treachery is the sudden and unexpected attack by the aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim.[47] It was clearly established that Edwin Labini, while talking to Pablo Lusabio, Jr. face to face, was suddenly stabbed by the latter with a ten-inch bladed weapon for no reason at all. The suddenness of the stabbing and the fact that Edwin Labini was unarmed gave him no opportunity to defend himself. It is likewise apparent that accused-appellant consciously and deliberately adopted his mode of attack, making sure that the victim would have no chance to defend himself by reason of the surprise attack.

In *People v. Villonez*,[48] we ruled that treachery may still be appreciated even when the victim was forewarned of danger to his person. What was decisive was that the execution of the attack made it impossible for the victim to defend himself or to retaliate.

In the case on appeal, Edwin Labini was completely unaware that he was going to be attacked. He was not forewarned of any danger to himself, as there was no altercation or disagreement between the accused and him. He was merely conversing with accused-appellant. If treachery may be appreciated when the victim was forewarned, more so should it be appreciated when the victim was not, as in the case at bar.

Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659,[49] murder is punishable by reclusion perpetua to death. In the instant case, treachery, which was alleged and proved, qualified the offense to murder. There being no other mitigating or aggravating circumstance in the commission of the felony, accused-appellant was correctly sentenced to reclusion perpetua, conformably to Article 63(2)[50] of the Revised Penal Code.

We now go to the award of damages. When death occurs due to a crime, the following damages may be awarded:

(1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.[51]

Civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime.[52] The trial court and the Court of Appeals properly awarded the amount of P50,000.00 to the heirs of the victim as civil indemnity. The amount of P75,000.00 as civil indemnity is awarded only if the crime is qualified by circumstances that warrant the imposition of the death penalty.[53]

As to actual damages, both the trial court and the Court of Appeals awarded only the amount of P20,000.00, since the prosecution was only able to prove this amount via an official receipt. The award of P25,000.00 for temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court.[54] Under Article 2224 of the Civil Code, temperate damages may be recovered, as it cannot be denied that the heirs of the victim suffered pecuniary loss, although the exact amount was not proved.[55] In *People v. Magdaraog*, [56] we pronounced that when actual damages proven by receipts during the trial amount to less than P25,000.00, the award of temperate damages for P25,000.00 is justified in lieu of actual damages of a lesser amount. Conversely, if the amount of actual damages proven exceeds P25,000.00, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted. Thus, in lieu of actual damages, temperate damages in the amount of P25,000.00 are awarded to the heirs of the victim.

Anent moral damages, the same are mandatory in case of murder and homicide, without need of allegation and proof other than the death of the victim.[57] The award of P50,000.00 by both lower courts is proper.

Both lower courts did not award exemplary damages. The heirs of the victim are entitled to exemplary damages, since the qualifying circumstance of treachery was firmly established.[58] Under Article 2230 of the Civil Code, exemplary damages as part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. The term aggravating circumstances as used therein is to be understood in its broad or generic sense, since the law did not specify otherwise.[59] Consistent with prevailing jurisprudence, we award the amount of P30,000.00 as exemplary damages to the heirs of the victim.[60]

WHEREFORE, premises considered, the decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01462 dated 9 November 2007 is hereby **AFFIRMED** with the **MODIFICATION** that (1) temperate damages in the amount of P25,000.00 are awarded in lieu of actual damages; and (2) exemplary damages in the amount of P30,000.00 are awarded to the heirs of Edwin Labini. Costs against the accused-appellant.

SO ORDERED.

Carpio, (Chairperson), Peralta, and Bersamin[*], JJ., concur.
Abad[**], J., see dissenting opinion.

[*] Per Special Order No. 763, dated 19 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Lucas P. Bersamin to replace Associate Justice Teresita J. Leonardo-De Castro, who is on official leave.

[**] Per Special Order No. 753, dated 12 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Roberto A. Abad to replace Associate Justice Presbitero J. Velasco, Jr., who is on official leave.

[1] Penned by Associate Justice Vicente Q. Roxas with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia, concurring. CA rollo, pp. 183-199.

- [2] Records (Crim. Case No. 01-464), pp. 182-225.
- [3] Records (Crim. Case No. 01-459), p. 1.
- [4] Records (Crim. Case No. 01-464), p. 1.
- [5] TSN, 14 January 2002, 16 January 2002.
- [6] TSN, 15 April 2002.
- [7] TSN, 20 May 2002.
- [8] TSN, 10 June 2002.
- [9] Exh. A; Records (Crim. Case No. 01-459), p. 12.
- [10] TSN, 23 September 2002.
- [11] Exh. 4; Records (Crim. Case No. 01-464), p. 12.
- [12] 23 September 2002, pp. 8-11, 14-16. In his testimony on 15 April 2002 (p. 10), he said the injuries at the back could not have been self-inflicted.
- [13] TSN, 28 January 2003, 17 March 2003, 16 September 2003.
- [14] TSN, 10 June 2002, 23 September 2002, 17 March 2003, 16 September 2003.
- [15] TSN, 15 April 2002.
- [16] TSN, 20 May 2002.
- [17] TSN, 15 April 2002, p. 10.
- [18] TSN, 1 July 2003, 5 August 2003.
- [19] TSN, 19 May 2003.
- [20] Id.
- [21] TSN, 16 September 2003.
- [22] TSN, 16 March 2004.
- [23] TSN, 1 June 2004.
- [24] Records (Crim. Case No. 01-464), pp. 224-225.
- [25] Records (Crim. Case No. 01-464), pp. 228-231.
- [26] Id. at 233-235.
- [27] Id. at 236.
- [28] Id. at 238.
- [29] CA rollo, p. 222.
- [30] Id. at 225.
- [31] Rollo, p. 26.

[32] Id. at 27-29.

[33] Id. at 35-45.

[34] *People v. Romero*, 459 Phil. 484, 499 (2003).

[35] *People v. Ulgasan*, 390 Phil. 763, 778 (2000).

[36] *People v. Daen, Jr.*, 314 Phil. 280, 291 (1995).

[37] *People v. Mariano*, G.R. No. 168693, 19 June 2009.

[38] *People v. Malate*, G.R. No. 185724, 5 June 2009.

[39] *Sayoc v. People*, G.R. No. 157723, 30 April 2009.

[40] Records (Crim. Case No. 01-464), pp. 219-221.

[41] *Belonghilot v. Hon. Angeles*, 450 Phil. 265, 293 (2003).

[42] *People v. Alviz*, G.R. Nos. 144551-55, 29 June 2004, 433 SCRA 164, 172.

[43] *People v. Baccay*, 348 Phil. 322, 327-328 (1998).

[44] *People v. Brecinio*, G.R. No. 138534, 17 March 2004, 425 SCRA 616, 625.

[45] *People v. Escultor*, 473 Phil. 717, 730 (2004).

[46] *People v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

[47] *People v. Botona*, G.R. No. 161291, 27 September 2004, 439 SCRA 294, 301.

[48] 359 Phil. 95, 112 (1998).

[49] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as amended, other Special Laws, and for other Purposes. Took Effect on 31 December 1993.

[50] Art. 63. Rules for the application of indivisible penalties. x x x.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[51] *People v. Beltran, Jr.*, G. R. No. 168051, 27 September 2006, 503 SCRA 715, 740.

[52] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 742.

[53] *People v. Barcena*, G.R. No. 168737, 16 February 2006, 482 SCRA 543, 561.

[54] *People v. Dacillo*, 471 Phil. 497, 510 (2004).

[55] *People v. Surongon*, G.R. No. 173478, 12 July 2007, 527 SCRA 577, 588.

[56] G.R. No. 151251, 19 May 2004, 428 SCRA 529, 543.

[57] *People v. Bajar*, 460 Phil. 683, 700 (2003).

[58] *People v. Beltran, Jr.*, supra note 51.

[59] *People v. Abolidor*, 467 Phil. 709, 722 (2004).

[60] *People v. Anguac*, G.R. No. 176744, 5 June 2009; *People v. Layco, Sr.*, G.R. No. 182191, 8 May 2009; *People v. Gidoc*, G.R. No. 185162, 24 April 2009.

DISSENTING OPINION

ABAD, J.:

The ponencia found accused-appellant Pablo Lusabio Jr., guilty beyond reasonable doubt of murdering Edwin Labini. It affirmed the findings of the Court of Appeals which reiterated the points raised by the trial court.

The trial court convicted Lusabio mainly based on the testimony of the victim's wife, Doris Labini. It found her credible, consistent, and free of ill motive to testify against Lusabio whom she knew. Further, the trial court gave more weight to Doris' positive identification of Lusabio as her husband's killer than Lusabio's denial. Lastly, co-accused Tomasito de los Santos corroborated Doris' testimony that Lusabio attacked the victim, though their stories did not match at certain points.

On appeal, Lusabio tried to convince the Court of Appeals that Doris was a biased witness and that, as the victim's wife, she has an impaired credibility. The latter court said, however, that it could not consider Doris biased because her relationship to the victim did not give her any incentive to falsely testify against an innocent man. Further, the inconsistencies between the testimonies of Tomasito and Doris were too trivial to discredit her statements.

Thus, Lusabio elevated the case to this Court.

The core issue in this case is whether or not Doris' testimony is sufficiently credible to support a finding of guilt beyond reasonable doubt.

In a 2008 decision,[1] this Court pointed out that the assumption that a widow's testimony is credible since she has no motive other than to see that justice is done is not equal to the statement that a witness' testimony is credible because the defense failed to show any motive to falsely testify. The edge given to a disinterested testimony applies only to those who are not related to the incident or to the victim. The widow is not a disinterested witness. She is someone who has a personal interest in the incident and who may have been traumatized because of it. Aggrieved parties have different reactions to these kinds of occurrences in their lives, thus:

"x x x Indeed, for some of them, the interest of seeing that justice is done may be paramount so that they will act strictly according to legal parameters despite their loss and their grief. At the opposite extreme are those who may not so act; they may want to settle and avenge their loss irrespective of what the law and evidence may indicate. In between these extremes are those who may not be outwardly or consciously affected, but whose judgment with respect to the case and its detail may be impaired by their loss and grief. All these are realities that we must be sensitive to." [2]

The Court concluded that the testimony of a widow, whose loss may have devastated her emotionally, cannot be assumed credible simply because the defense could not identify ill motive on her part.

In this case, except for the fact that De los Santos' testimony corroborated that of Doris', the Court did not put much emphasis on his statements. Being a co-accused himself, De los Santos had all the reasons to point the

finger somewhere else, particularly in the direction of Lusabio. In other words, Lusabio can be considered as having been convicted solely based on the testimony of the victim's widow.

But consider the ponencia's summary of Doris' testimony:

"...Around 9:00 p.m. of 12 June 2001, she was in their living room cleaning their house, while Edwin was busy cooking in the kitchen in preparation for the barrio fiesta the following day. Thereafter, Tomasito de los Santos arrived and conversed with Edwin. Tomasito and Edwin left and casually walked away. Nervous and apprehensive because her husband was fetched and she did not know where he was going, Doris followed the two. When Edwin and Tomasito arrived at the weighing post near the gate of the house of Romeo de los Santos, the brother of Tomasito, the latter left Edwin for about two minutes. Doris stopped at a distance of about eight meters away from the two. She explained that she had the habit of following her husband but not asking her husband where he was going. When Tomasito returned to Edwin, accused-appellant Pablo Lusabio, Jr. appeared. The latter talked to Edwin and all of a sudden, accused-appellant stabbed Edwin with a ten-inch bladed weapon. Doris ran away and so did Tomasito. Upon seeing her husband being stabbed by accused-appellant, her first reaction was to seek the assistance from her husband's brother, Jose Labini. After seeking assistance, she returned to the place where her husband was stabbed and learned that her husband was already dead."

I find Doris' testimony of doubtful credibility for the following reasons:

- According to Doris, her husband, Edwin, just casually walked away with Tomasito after the latter arrived and talked to him, evidently to go to a neighbor's house. But this seemed unlikely because, as Doris said, Edwin was at that time doing some cooking. Normally, a husband would have first asked his wife to mind the kitchen. He would not just walk casually away as Doris would have it.
- Doris said that she followed her husband out of the house and onto the house of Tomasito's brother. But it is also not likely that a wife would just leave her house with no one to mind it after her husband left, especially since there was cooking going on in the kitchen.
- Doris said that, after Tomasito left her husband in front of his brother's house, she just stood there for two minutes watching her husband eight meters away while he waited for Tomasito to return. If she were apprehensive for his safety, it is incredible that she did not approach him and ask him what he was doing standing there.
- Doris testified in great detail that she saw Lusabio attack her husband with a 10-inch bladed weapon. Yet, she was unable to perceive how Lusabio sustained so many incise and stab wounds himself.
- More, a wife who had shown great concern for the safety of her husband would surely, rather than ran away as she testified, either shout for help for her husband or implore his assailant to stop the attack.

It could happen that, although the victim's relatives were convinced that the accused committed the crime, no witness is available to testify on it. A loved one, like the wife, would always be willing to testify, even falsely, to obtain justice for her slain husband. Consequently, it is important to scrutinize the widow's testimony and check it against the criteria of common experiences.

Conviction based on a set of circumstances contrary to human experience is what this Court should veer from. A man should not be put away simply because the defense could not raise ill motive against a witness that this Court should not treat as partial and unbiased, in the first place, because she has emotional ties to the case which could have clouded her judgment.

[1] People v. Rodrigo, G.R. No. 176159, September 11, 2008, 564 SCRA 584.

[2] Id.

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