

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO MULA CRUZ, ALIAS "PORONG";
ACCUSED-APPELLANT.**

G.R. No. 60098. April 30, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the decision of the then Court of First Instance of Pangasinan finding Eduardo Mula Cruz, alias "Porong", guilty beyond reasonable doubt of the crime of murder and sentencing him to reclusion perpetua, to indemnify the heirs of the deceased in the amount of P12,000.00 and to pay the costs.

The People's version of the incident is as follows:

"At about 5:00 in the afternoon of April 11, 1979, Modesto Alipio was walking along the barangay road of Sawat, Urbiztondo, Pangasinan (p. 45, tsn., October 8, 1980). He came from the house of Jose Frias of Barangay Salavante of the same town (p. 43, tsn. id.), and he was on his way to his house at Barangay Niog, Mangatarem, Pangasinan (p. 45, tsn., id.).

"At about that time, and while he was in front of a store, he saw and heard appellant Eduardo Mula Cruz alias Porong talking to Julian Galpao (pp. 46 and 49-51, tsn., October 8, 1980). The former said to the latter, 'Today, you are going to pay your debt.' Then Galpao answered the appellant: 'Porong what is my fault to you' (p. 47, tsn., id.). After that exchange of words, the appellant hacked Galpao at the back of the neck and Galpao fell to the ground (p. 48, tsn., id.). Appellant continued attacking the deceased. He saw also two male persons holding bolos and two women holding the men's waists to prevent them from inflicting further injuries on Galpao (pp. 48-51, tsn., id.). He heard one of the women say: 'That is enough Logging because the man (Galpao) is already dead' and the other woman also said 'that is enough Simeon, the man (Galpao) is already dead' (pp. 49-51, tsn., id.). After that, Modesto Alipio left and went home and did not bother to report to the authorities what he witnessed because he thought that other persons who were also present would make the report (pp. 48 and 54, tsn., id.).

"At about 7:00 in the evening of the same day, April 11, 1979, the naked and dead body of Julian Galpao was found near the Agno River at Barangay Sawat (pp. 64-67, tsn., id.). The Barangay Captain and the police authorities were informed of the finding of the body of the deceased Julian Galpao and they conducted investigation (pp. 66-67, tsn., id.). Later on, the body of the deceased was brought to the house of the deceased's father at Barangay Pisuac (p. 70, tsn., id.). The police interrogated some persons including the appellant and his brothers Ago, Ming (Simeon) and Logging (pp. 72-77, tsn., id.). Appellant professed innocence about the killing of the deceased (p. 57, tsn., February 10, 1981). The other persons investigated also professed innocence (p. 54, tsn., id.).

"Dr. Gil del Rosario, Municipal Health Officer of Urbiztondo, Pangasinan, examined and autopsied the cadaver of the deceased and his autopsy report revealed eleven wounds and his findings are as follows:

"Body lies a state of post-mortem rigidity and lividity

Body lies the following wounds:

1. Incised wound, superficial involving skin and subcutaneous tissues above the mouth and measuring 3 inches
2. Incised wound, below the left mandible extending deep into the cervical spine, measuring 6 inches involving muscles, jugular veins and other structures
3. Incised wound, 2 cm below wound No. 2, 5 inches in length also extending deep into the cervical spine
4. Incised wound, 2 cm. wound No. 3, Supervicial involving the skin and subcutaneous fate 3 inches in length
5. Incised wound, left shoulder, 6 inches in length and superficial involving the skin and subcutaneous tissue
6. Incised wound, anterior aspect of left arm, 4 inches extending deep into the humerus
7. Stab wound 4 x 2 cm, lateral aspect of left arm
8. Incised wound, left forearm, lateral aspects, 3 inches in length
9. Stab wound 1 x 1 cm right neck extending deep into the cervical spine
10. Incised wound, nape of the neck, 5 inches in length extending deep into the cervical spine
11. Incised wound, 5 inches in length, right scapular region, extending into the scapular bone

Cause of death:

Shock due to hemorrhage due to multiple incised wounds.

DATE OF EXAMINATION: April 12, 1979' (Exh. A)

"On or about May 7, 1979, Modesto Alipio, who saw appellant hacked the deceased, casually told Pedro Sanchez about what he had seen (pp. 52-53, tsn., October 8, 1980). Upon being told, Pedro Sanchez, who happened to be the uncle of the deceased asked Alipio if he were willing to testify in court (p. 53, tsn, id). Upon being assured of Alipio's willingness to testify, Pedro Sanchez informed the elder brother of the deceased and they, together with Alipio, went to the PC headquarters at Bayambang, Pangasinan, where Alipio gave his sworn statement regarding the hacking incident (Exh. B, pp. 8-10, Rec.; pp. 53-55, tsn., October 8, 1980).

"At the trial, Alipio identified appellant Eduardo Mula Cruz alias 'Porong' as the person who hacked the deceased (pp. 49-51, tsn, October 8, 1980).

Against the foregoing evidence of the prosecution, appellant Eduardo Mula Cruz, 33 years old, testified that on April 11, 1979 he was in his field from 1:00 to 6:00 late afternoon pasturing his cow at Sawat, Urbiztondo, Pangasinan. He denied having anything to do with the death of Julian Galpao whom he never knew in life, much less of the incidents regarding his death. In short, the defense is denial and alibi and, in connection with his appeal, he claims that the trial court erred in finding him guilty beyond reasonable doubt considering that the People's eyewitness, Modesto Alipio, is not a credible witness.

Records of the case will show that the trial court convicted appellant Eduardo Mula Cruz on the basis of the testimony of Modesto Alipio. Analyzing the declaration of this eyewitness, We cannot bring ourselves to give full faith and credit to his testimony. Consequently, We cannot sustain the judgment of conviction rendered by the trial court. We reverse.

1. Immediately after the stabbing incident, Patrolman Jose Ferrer and Barangay Captain Perfecto Frias conducted testimonial investigation in Barangay Sawat where the incident happened and their interview with the residents of the place gave no positive results. According to Modesto Alipio he and many others were

present when herein appellant assaulted the deceased Julian Galpao. In fact, two women were allegedly holding the protagonists to prevent them from inflicting further injuries on the deceased and yet not a resident in the barangay came out to inform the police who these two women and other persons present were.

2. It took forty-two (42) days after the incident for Modesto Alipio to come out and give his sworn statement, Exhibit "B", to the Philippine Constabulary narrating therein what he saw on that occasion. He testified that the killing took place in the heart of Barangay Sawat, Urbiztondo and that he clearly saw and recognized the victim and his assailants. He saw two armed men with boloes held by two women dissuading them from further attacking the victim. It is indeed surprising that Modesto Alipio, a retired sergeant of the Armed Forces of the Philippines, and a member of the Lupon Tagapayapa of Barangay Niog, Mangatarem, Pangasinan did not immediately tell the authorities what he allegedly saw. He claimed that on May 7, 1979, or twenty-six (26) days after the incident, he told one Pedro Sanchez who, in turn, narrated the matter to the brother of the victim, Emeterio Galpao, and together, after 16 days, they informed the Philippine Constabulary of Bayambang. Failure on the part of Alipio to report to the authorities immediately - a very essential detail in the solution of the crime - engenders a suspicion that he was not altogether candid and truthful in his testimony. At any rate, the long delay, which is not caused by threat, intimidation or coercion by herein appellant or anybody for that matter, in reporting the matter to the authorities - the mayor, barangay captain, police or the Philippine Constabulary, by one who himself was once an army man has rendered the evidence for the prosecution insufficient to establish appellant's guilty connection to the requisite of moral certainty. The claim that he was relying on other persons present to make the report is, to say the least, a lame excuse.

3. While it is true that the defense of alibi is weak, it is still the fundamental rule in the prosecution of criminal cases that the People must stand on the strength of its own evidence and not on the weakness of the defense. To render a judgment of conviction on the basis of the testimony of Alipio will certainly not make Our minds rest easy on the certainty of the guilt of appellant.

4. As stated above, according to Alipio, the stabbing of Julian Galpao occurred in the center of the barangay. However, the fact is, the body of the deceased was found near the Agno River at Barangay Sawat, lying naked on his side with his clothes covering his private parts. How his body was brought to such place and who transferred him there are still unknown. At least, there is no evidence on this point, much less, with respect to the person or persons responsible therefor.

We are convinced that the guilt of appellant Eduardo Mula Cruz alias "Porong" has not been proven beyond reasonable doubt. It is a fundamental principle of criminal law consecrated in our Bill of Rights that in all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved. In consonance with this Constitutional mandate, Our Rules of Court consider as a disputable presumption that the person is innocent of crime or wrong (Section 5(a), Rule 131).

ACCORDINGLY, the judgment of conviction is REVERSED and accused-appellant Eduardo Mula Cruz alias "Porong" is hereby ACQUITTED of the crime charged.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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