

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TIMOTEO TOLENTINO Y MAPUA ALIAS “TEM”;
DEFENDANT-APPELLANT.**

G.R. No. 70836. October 18, 1988

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-70836/>

CORTES, J.:

In the instant appeal from a conviction for murder, the Courts is once more tasked with the resolution of the pivotal issue of whether the prosecution has successfully discharged the onus probandi imposed upon it in criminal cases. The case stemmed from an information charging the accused Timoteo Tolentino y Mapua and one John Doe with the crime of murder committed as follows:

That on or about the 26th day of July, 1982, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, confederating with and aiding one another, did, then and there wilfully, unlawfully and feloniously with intent to kill, qualified by evident premeditation and treachery, attack, assault and employ personal violence upon the person of Alfredo Quitoriano y Bayot, by then and there throwing at him stones hitting him on the head and stabbing the said victim thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said Alfredo Quitoriano y Bayot. [Information, Rollo, p. 3.]

In order to determine the identity of the other accused, the fiscal conducted a reinvestigation and thereafter submitted his resolution to the trial court wherein he noted the failure of the complainant during the investigation to present any witness to establish the identity of said John Doe. Hence the reinvestigation was terminated with the identity of said John Doe still undetermined [Original Records, p. 55.] Accordingly, only the herein accused Tolentino was arraigned and tried. A plea of not guilty was entered by the accused. His application for bail dated August 2, 1982 was denied and so he remained in jail during the trial.

After the presentation of the evidence for the prosecution, accused Tolentino filed a demurrer to the evidence, captioned "Motion to Dismiss", alleging:

- That there is no evidence adduced by the prosecution to show that herein accused stabbed the deceased or conspired with somebody who might have inflicted the stab wound sustained by the deceased;
- That the evidence adduced by the prosecution shows that the injuries sustained by the deceased, particularly on the head, were caused by some other means and not by stoning;
- That the testimony of the prosecution witness, Bienvenido Ferrer, does not indicate that the deceased was hit by a stone allegedly thrown by accused towards the deceased;
- That the deceased died because of the fatal wounds caused by a sharp instrument, according to the testimony of the medico-legal officer;
- That the prosecution failed to prove the crime charged and therefore the case against the herein accused

should be dismissed. [Original Records, p. 95.]

However, the trial court resolved to defer its resolution thereon, stating in its Order dated May 27, 1983 that "the resolution of this motion to dismiss is held in abeyance until the defense shall have presented its evidence and the complete records of the proceedings from the beginning shall be available." [Original Records, p. 123.]

Relying strongly on the merits of his demurrer to the evidence, accused waived his right to present any evidence and moved that the case be submitted for decision on the basis of the evidence presented by the prosecution and his demurrer to the evidence. He likewise filed a second motion to be released on bail. After a consideration of the evidence presented by the prosecution, the trial court resolved to grant the application for bail on July 18, 1983. Thereafter, the trial court rendered its judgment, the dispositive portion of which reads as follows:

WHEREFORE, the guilt of the accused having been proved beyond reasonable doubt is (sic) hereby convicted of the crime of Murder and is hereby sentenced to life imprisonment and to indemnify the heirs of Alfredo Quitoriano the amount of P15,000.00. [Rollo, p. 22.]

From said decision, Tolentino interposed an appeal to this Court.

In his brief, the accused made the following assignment of errors:

- That the trial court erred in finding that the victim was hit at the back of his head by a stone thrown by the accused.
- The trial court erred in not finding that the victim's wounds at the back of his head was caused by a sharp instrument as borne by the findings and testimony of the medico-legal expert who performed the autopsy of the body of the victim.
- The trial court erred in not finding that accused had nothing to do with the infliction of the mortal wounds sustained by the victim, nor he conspired or acted in concert with the person who inflicted such injuries, much less he acted as an accomplice (sic.)
- The trial court erred in not rendering a judgment of acquittal. [Brief for Defendant-Appellant, p. 2.]

To support the first and second assigned errors, the appellant relies heavily upon the testimony of the medico-legal officer, Dr. Gregorio Blanco, who performed the autopsy on the body of the victim. According to the appellant, the finding of the trial court to the effect that the wound located at the back of the victim's head was caused by a stone is erroneous as the same is not supported or confirmed by the finding of the medico-legal officer and his expert testimony before the lower court.

The necropsy report filed by Dr. Gregorio Blanco, the Chief of the Medico-Legal Division of the PC Crime Laboratory shows the following injuries found on the body of the deceased, to wit:

* * *

HEAD, TRUNK AND EXTREMITIES:

(1)

Abrasion, right supra-orbital region, measuring 0.7 by 0.2 cm. 8 cm. from the anterior midline.

(2)

Lacerated wound, right postauricular region, measuring 2.5 by 0.3 cm. 10 cm. from the posterior midline.

(3)

Contusion, right pre-auricular region, measuring 6 by 5 cm. 13 cm. from the anterior midline.

(4)

Contusion, right suprascapular region, measuring 6 by 6 cm. 13 cm. from the posterior midline, with a superimposed abrasion, measuring 3 by 3 cm.

(5)

Abrasion, right infrascapular region, measuring 5 by 0.3 cm. 10 cm. from the posterior midline.

(6)

Stab wound, left axillary region, measuring 1.8 by 0.4 cm. 18 cm. from the anterior midline, 11 cm. deep, directed downwards, posteriorwards and to the right, fracturing the 5th left thoracic rib, along the mid-axillary line, lacerating both lobes of the left lung.

(7)

Abrasion, dorsum of the left hand, measuring 0.6 by 0.5 cm. 2 cm. lateral to its posterior midline.

(8)

Abrasion, left knee, measuring 0.7 by 0.5 cm. 1.5 cm. lateral to its posterior midline.

* * *

REMARKS:

Cause of death is cardio-respiratory arrest due to shock and hemorrhage secondary to injuries of the head and stab wound of the trunk. [Original Records, p. 74.]

It must be noted that the injuries denominated as Nos. 1, 2, and 3 in the necropsy report were all located in the victim's head while the rest of the injuries denominated as Nos. 4, 5 and 6 were located on the trunk and Nos. 7 and 8 on the extremities of the victim. The two fatal injuries though are the lacerated wound at the back of the victim's head (wound No. 2) and the stab wound at his left chest (wound No. 6). The prosecution posits that since the accused hurled stones at the back of the victim's head, the infliction of wound No. 2 can be ascribed to him and accordingly, he can be held liable for the victim's death.

However, inasmuch as the medico-legal officer testified that the fatal injury sustained by the deceased at the back of the head was caused by a sharp instrument [TSN, November 5, 1982, p. 8], appellant maintains that the allegation of another prosecution witness, Bienvenido Ferrer in his sworn statement to the effect that the accused came from behind the victim and threw a stone hitting the back of the latter's head and causing him to fall on the cemented ground, cannot be given any credence at all. He asserts that in view of Dr. Blanco's unquestioned qualifications, experience and expertise and his opportunity to examine the nature and extent of the injury

inflicted upon the victim, his testimony should prevail over that of Ferrer.

The apparent conflict in the evidence introduced by the prosecution brings to the fore the main issue of whether the guilt of the accused has been proved beyond reasonable doubt. In resolving the question, the Court has to determine how much weight should be given to the opinion of the medical expert vis-a-vis that of the other witness.

The prosecution's case is anchored principally upon the sworn statement and testimony[*] before the court a quo of the lone eyewitness, Bienvenido Ferrer. While his testimony dwelt on the fact that he saw the appellant throwing stones at the victim, nowhere from said testimony can it be gleaned that the stones allegedly thrown actually hit the victim and caused such injury as will constitute a penal offense. In the light of the absence of any other corroborating testimonies, the sparseness in details of Ferrer's testimony has certainly weakened the prosecution's case.

Neither is the sworn statement executed by Ferrer on July 22, 1982 and formally presented in evidence before the court of any help to the prosecution. While said statement serves to amplify Ferrer's narration of the stoning incident, it has not efficiently established Tolentino's liability for the death of the victim. This conclusion is supported by a close scrutiny of said statement:

T - Ano ba ang nakita ninyong pagkapatay nitong si Fred Quitoriano?

S -

Ng humigit kumulang sa 8:30 ng gabi kagabi July 26, 1982, ng ako'y dumating sa aming bahay ay nakita ko si FRED QUITORIANO na nakaupo sa may tabi ng isang lamesa sa harapan ng aming tindahan sa No. 822 T. Sora Avenue, Old Balara, Quezon City, at siya ay kumakain ng dinuguan at ako'y niyaya na umupo sa tabi at doon ay nakita ko rin si FRANCING na si Mrs. TOLENTINO na kausap ng asawa ko, at hind nagtagal ay dumating ho si Mr. SATURNINO MOGADO na kapitbahay rin namin kaya niyaya rin namin ni FRED na kumain si SATURNINO at pati si FRANCING ay niyaya na rin namin na kumain kaya naman nga ginawa ni FRANCING ay naupo sa aming lamesa, subalit hindi nagtagal ay dumating si Mr. SIXTO TOLENTINO kaya siya ay inanyayahan namin na kumain din ngunit hindi siya kumibo at siya ay umorder na lang ng isang boteng beer sa tindahan namin at iniinom niya iyon habang siya ay nakatayo sa tabi ng counter pagkatapos na maubos niya ang laman ng bote ng beer ay umalis na si Mr. SIXTO TOLENTINO, tapos ho hindi pa nagtatagal ay umuwi na rin si FRANCING at ako naman ay pumasok na sa loob ng aming bahay at ako'y humiga sa supa namin sa sala at ako'y naidlip ng sandali at ako'y nagising na lang ng ako'y makariniq ng sigawan ng mga tao na nanggaling sa harapan ng tindahan namin kaya ang ginawa ko ay agad akong tumayo at nagtungo sa pintuan ng bahay namin at nakita ko si FRED QUITORIANO na kasalukuyang naglalakad patungo sa looban namin at pagkatapos ho ay bigla kong nakita si TIMOTEO TOLENTINO na sumulpot sa may likuran ni FRED at nakita ko na binato niya ng isang pirasong bato si FRED at tinamaan sa ulo kaya ho napatumba si FRED sa semento at pagkatapos ay binato na muli ni TEM si FRED habang ito'y nakahiga sa semento at tinamaan na muli si FRED, pagkatapos ho ay tumakbo na si TEM palabas ng aming bakuran at noon naman ay kinarga na nina Mr. MOGADO at ni CAMILO LOPEZ si FRED sa kotse ni CAMILO at sinamahan ko sila na dalhin itong si FRED sa Labor Hospital subalit siya ay namatay doon makalipas ang 20 minutos." [Original Record, p. 85, Underscoring supplied.]

From the said statement it can be gathered that the stabbing of Quitoriano occurred while Ferrer was taking his nap, causing a commotion and eliciting shouts from the people outside which awakened him. Ferrer categorically admitted before the trial court having seen only the stoning and not the stabbing [TSN, August 25, 1982, pp. 7 and 10.] There was therefore no evidence linking the appellant to the stabbing as witness Ferrer never saw the

stabbing. This fact was conceded by the Assistant City Fiscal in his resolution dated July 28, 1982, ordering the filing of the information against Tolentino [Original Records, p. 8.] The indictment for murder was accordingly premised on the appellant's act of throwing stones at the victim.

But the evidence on record is bereft of any affirmative and positive showing that such act of the appellant produced any fatal wound or any injury for that matter. The testimony of Ferrer, it bears reiteration, merely established the fact that appellant threw stones at the victim. While in his sworn statement, Ferrer alleged that the stones hit the victim's head and caused him to fall, such allegation is belied by the clear and categorical findings of the medico-legal officer who conducted the autopsy on the victim, that such injuries were caused by means other than stoning. Thus:

* * *

Q Now, doctor, in layman's language, will you please explain your findings relative to the finding No. 1, where is this located?

A

Abrasion. The collision of the surface of the body affected by falling down or it could be inflicted by instrument which is rough which will cause abrasion and it is located in orbitrary region, I have here in my possession the diagrammatic representation of different injuries incurred by the victim.

* * *

Q How about item No. 2 (lacerated wound), what had caused this injury?{**}

A I would say, sharp instrument which could have been inflicted to the body of the victim thus producing lacerated wound.

Q What could have caused the wound, doctor?

A Possible may be a "balisong".

Q How about item No. 3 ?

A This injury is contusion...

Q Where is this located?

A It is here. (Witness indicating diagram 1, 2, 3... wait a minute... this No. 3, right aurecular region...

COURT:

Witness is marking in chronological order corresponding to the necropsy report the injuries sustained by the victim.

Q What could have caused injury No. 3?

A Maybe it was caused by a fistic blow. [TSN, November 5, 1982, pp. 8-9; Underscoring supplied.]

Ferrer's testimony thus finds no corroboration even from the opinion given by the medico-legal officer who was presented by the prosecution itself to testify on the cause of the victim's injuries. In this jurisdiction, expert opinion constitutes one of the few exceptions to the general rule that a mere opinion of a witness regarding a particular matter is not admissible. In this connection, Rule 130, Section 43 provides: "The opinion of a witness regarding a question of science, art or trade, when he is skilled therein, may be received in evidence."

In the field of medicine, opinions of doctors qualified by training and experience as to causation are competent and in many cases controlling and binding upon the court [People v. Castro, G.R. No. L-38989, October 29, 1982, 117 SCRA 1014; See also Murray v. Industrial Commissions, 349 P. 2d 627, 87 Ariz 190 (1960).] In this case, Dr. Blanco's opinion as to the cause of the victim's injuries should be accorded great respect, it being peculiarly within the expertise of medical practitioners.

A careful examination of the findings of the medico-legal officer in his necropsy report, particularly on the wounds found on the victim's head, bolsters the appellant's claim that his guilt has not been proved beyond reasonable doubt. Wound No. 1, an abrasions, was located above the victim's right eyebrow and therefore, could not have been inflicted by the appellant as Ferrer plainly testified that the appellant was behind the victim when he threw the stones. The same can be said of Wound no. 3, a contusion located near the right cheek of the victim. The infliction of the fatal wound, Wound No. 2, a lacerated wound meaning only 2.5 by 3 cm., located at the back of the victim's head cannot likewise be attributed to appellant as, according to the expert opinion of the doctor who examined the wound, it was caused by a sharp instrument like a "balisong." While the doctor's testimony on record does not preclude the possibility that the wound could have also been caused by a stone, it was incumbent upon the prosecution, for its case against the accused to succeed, to elicit a positive statement to that effect from the doctor. But the prosecution absolutely failed in this task.

That the prosecution's evidence falls short of the standard degree of proof that will sustain a judgment of conviction is manifest from its belated attempt to cure the deficiency by a motion for correction of transcript of stenographic notes [See Original Records, p. 111, et seq.,] The motion adverted to an alleged omission in the transcript of stenographic notes of a question propounded to Dr. Blanco which allegedly elicited a response to the effect that the hitting of the head with a stone could have caused the injury. The motion however was filed only after the accused-appellant had already filed his demurrer to the evidence, pointing out to the absence of evidence to show that the injuries sustained by the deceased, particularly on the head, were caused by stoning [Original Records, p. 95.] It was denied by the trial court as "there (was) no showing that the stenographer concerned who took (sic) the proceeding and transcribed the notes failed in her duty" [Original Records, p. 115.]

Further, the prosecution during the trial manifested that it has in its possession the stones allegedly used in the commission of the crime [TSN, March 15, 1983] and yet, the prosecution rested its case without formally offering in evidence the said stones. The ineptness of the prosecution in handling this case, while certainly prejudicial to the State and the private offended party, cannot be treated by this Court with indulgence as it will result in a complete disregard of the constitutional right of the accused to be presumed innocent until his guilt has been proven beyond reasonable doubt.

In fine, the failure of the prosecution to prove that the act of the appellant produced such injury as will constitute a penal offense is fatal to their case. In criminal cases, the burden of proof as to the offense charged lies on the prosecution [Rule 131, Section 2 of the Revised Rules of Court.] As the accused has in his favor the constitutional presumption of innocence, the quantum of proof that will warrant a verdict of guilt must be strong enough to erase any reasonable doubt as to his culpability. True, the trial court found the prosecution evidence sufficient for purposes of conviction. As a rule, this Court usually desists from disturbing the conclusions of the trial court on the credibility of witnesses, in deference to the basic precept that the lower court, having seen and heard the witnesses and observed their demeanor and manner of testifying, is in a better position to appreciate the evidence. But this doctrine must bow to the superior and immutable rule that the guilt of the accused must be proved beyond a reasonable doubt, because the law presumes that a defendant is innocent and this presumption must prevail unless overturned by competent and credible proof [People v. Galvez, G.R. Nos. L-26944-45, December 5, 1980, 101 SCRA 544.] As authoritatively set forth by this Court in a fairly recent decision:

Appellants have in their favor the presumption of innocence as guaranteed by the Constitution. Proof against them must survive the test of reason. Every circumstance against guilt and in favor of innocence must be considered. Suspicion no matter how strong should not sway judgment, for well-established is the rule that the prosecution must rely on the strength of its evidence and not on the weakness of the defense; that appellants need not prove their innocence because that is presumed; that the presumption of innocence is a conclusion of law in favor of the accused, whereby his innocence is not only established but continues until sufficient evidence is introduced to overcome the proof which the law has created - that is, his innocence; "that conscience must be satisfied that defendant has been proven guilty of the offense charged. Only by proof beyond reasonable doubt which requires moral certainty, 'a certainty that convinces and satisfies the reason and conscience of those who are to act upon it' may the presumption of innocence be overcome." [People v. Clores, G.R. No. 61408, October 12, 1983, 125 SCRA 67, 75 citing People v. Inguito, G.R. No. 53497, October 18, 1982, 117 SCRA 641, 649.]

Here, the evidence of the prosecution, far from proving the culpability of the appellant for the crime charged, discloses several probabilities, some of which point to his innocence. For one thing, Ferrer's testimony that the appellant had just alighted in front of the carinderia at the time he threw stones at the victim negates any possibility that he was the one who assaulted the victim with a sharp instrument [TSN, August 25, 1982, p. 10.] Moreover, while the established facts do not entirely rule out the possibility that the accused could himself have inflicted the fatal wounds, the Court cannot base its conviction upon mere possibilities. It should be stressed anew that "possibilities and suspicion are not evidence" [Sacay v. Sandiganbayan, G.R. Nos. 66497-98, July 10, 1986, 142 SCRA 593, 612] and therefore should not be taken against the accused. Here, what the prosecution managed to establish were mere circumstances which were not sufficient to overcome the constitutional presumption of innocence. While circumstantial evidence may suffice to support a conviction, it is imperative, though, that the following requisites should concur:

(a)

There is more than one circumstance;

(b)

The facts from which the inferences are derived are proven; and,

(c)

The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt [Rule 133, Section 5 of the Revised Rules of Court.]

For the well-entrenched rule in evidence is that "before conviction can be had upon circumstantial evidence, the circumstances proved should constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the defendant, to the exclusion of all others, as the author of the crime" [People v. Subano, 73 Phil. 692 (1942); Underscoring supplied.] In this case the circumstantial evidence presented by the prosecution does not conclusively point to the liability of the accused for the crime charged.

Bearing in mind that circumstantial evidence in order to warrant conviction "must fairly exclude every reasonable hypothesis of innocence" [Doronado v. Court of Appeals, G.R. No. 57744, August 31, 1987, 153 SCRA 420, 433], the Court concludes that the prosecution has miserably failed to adduce such circumstantial evidence as would produce a moral certainty that the accused committed the crime charged. The accused is not duty-bound to dispel the doubts regarding his innocence. Accordingly, the constitutional presumption of innocence prevails.

The third assignment of error -- that the trial court erred in not finding that the accused had nothing to do with the infliction of the mortal wounds sustained by the victim nor did he conspire or act in concert with the person who inflicted such injuries, much less act as an accomplice -- is thus impressed with considerable merit.

Since it does not appear that any of the mortal wounds were inflicted by the accused, it behooves the prosecution to establish the existence of conspiracy in order to hold the accused liable as a principal in the crime of murder. But in this task, the prosecution failed utterly as admitted by the Solicitor General himself in the appellee's brief [Rollo, p. 47.]

Neither was the accused's participation in the crime as an accomplice sufficiently proved. For the doctrine steadfastly adhered to by this Tribunal is that ". . . (i)t is an essential condition to the existence of complicity, not only that there should be a relation between the acts done by the principal and those attributed to the person charged as accomplice, but it is furthermore necessary that the latter, with knowledge of the criminal intent, should cooperate with the intention of supplying material or moral aid in the execution of the crime in an efficacious way." [People v. Tamayo, 44 Phil. 38, 49 (1922); Underscoring supplied.] None of these essential rudiments of complicity were shown to exist in the instant case.

From the foregoing, it is clear that the fourth assignment of error -- that the trial court erred in not rendering a judgment of acquittal -- is meritorious.

The fundamental precept that the prosecution has the burden of establishing the guilt of the accused beyond reasonable doubt commands strict compliance with the requisite degree of proof for discharging that burden. A painstakingly thorough appraisal of the evidence presented by the prosecution yields no legal basis for a verdict of conviction for it failed to meet the test of moral certainty.

WHEREFORE, for failure of the prosecution to prove his guilt beyond reasonable doubt, the accused Timoteo Tolentino is hereby ACQUITTED of the crime charged.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

[*] It should be noted that during the hearing of the first petition for bail, as the defense admitted the affidavit of Ferrer for purposes of such petition, the prosecution decided not to present him for direct examination. The Court however called Ferrer to the witness stand to answer some questions and this is the testimony referred to in this decision. Ferrer was likewise not called upon to testify during the trial proper.

[**] Wound No. 2 is a lacerated wound located at the back of the right ear, described by Dr. Blanco in the necropsy report as one of the wounds causing the victim's death.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.