

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO MARMITA, JR., ACCUSED-APPELLANT.

G.R. No. 75618. December 29, 1989

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-75618/>

CRUZ, J.:

It was half past ten in the evening of June 11, 1983, in Barangay San Vicente, Municipality of Alangalang, Province of Leyte. There was a public dance and the participants and onlookers were obviously enjoying themselves. Suddenly a shot rang out and the people scampered away in panic. Two more shots followed. Within minutes, a man was dead with two bullet wounds in his back. His name was Nathaniel Quiñones.

The assailant, according to the prosecution, was Alfredo Marmita, Jr. He was charged with murder in an information dated September 8, 1983, and underwent trial after he waived preliminary investigation and pleaded not guilty on arraignment. On June 3, 1986, he was convicted and sentenced to reclusion perpetua and payment of civil indemnity in the amount of P30,000.00 to the victim's heirs, plus the costs. The decision penned by Judge Auxencio C. Dacuycuy of the Regional Trial Court of Leyte[1] is now on appeal before this Court.

The prosecution presented two witnesses who claimed they saw the actual shooting of the victim by Marmita.

Tomas Quiñones testified that in the evening in question he had gone to the public dance with his cousin Nathaniel, who at the time of the incident was standing to his right while they were watching the people dancing. Upon hearing a shot, he saw Nathaniel slumped on the ground with his face down and Marmita standing over him with a drawn gun. Marmita fired two more shots at Nathaniel and then fled. The witness added that he then went to the fallen Nathaniel, who said to him, "Tommy, it was Ette. It was Ette," referring to the accused. Nathaniel died soon thereafter.[2]

The other eyewitness was Edgar Pulga, who corroborated Tomas Quiñones and said he was also at the public dance that evening. He was about two meters from Nathaniel when the shooting occurred and he also identified the killer as Marmita.[3]

Testifying for himself, the accused-appellant pleaded the defense of alibi, claiming he was nowhere at the scene of the crime at the time of its commission. On the contrary, he stated under oath, he was at his residence in Jaro, Leyte, supervising the unloading of construction materials he had earlier brought from Tacloban City. He declared that the unloading was done from 9 to 11 o'clock of that night.[4]

For corroboration, the defense presented Pat. Bendolo Artoza, who said he went to Marmita's residence at 10 o'clock that night to buy gasoline and saw Marmita there;[5] Pat. Rodrigo Katangkatang, who said he saw Marmita unloading the construction materials at his residence that night;[6] and Sgt. Jose Catan, who testified to the same effect.[7]

Another policeman, Lt. Alfredo Morados, declared that Tomas Quiñones had informed him that Nathaniel's killer was "a man of Ite,"[8] while Capt. Mameliano Tiberio said that Tomas had pointed to Ansoy Marmita.[9] For his

part, Pat. Ruperto Mesina, who was present when the crime was committed, swore that when he talked to the victim the latter had lost his power of speech and could not answer when asked who had shot him.[10]

It is curious that all these witnesses of the accused-appellant belonged to the police force, which is probably one reason why the trial court did not place much reliance on their testimonies. To understand this statement, one must first examine the apparent motive for the killing.

The evidence discloses that there was bad blood between the victim and Marmita because of their business competition in the operation of the game of "masiao" in Jaro. Nathaniel belonged to an organization opposed to the one reputedly headed by Marmita. In fact, Nathaniel was at the time of his death facing a charge for the killing of Cesar Galvez, allegedly one of Marmita's men.[11] His co-accused, Buenaventura Aruta, testified on the extent of the rival "masiao" operations,[12] as so too did Sofia Quiñones, Nathaniel's mother, who stressed the enmity between her son and Marmita because of their business differences.[13] Marmita himself was under investigation for alleged illegal possession of firearms after a search of his premises presumably instigated by Nathaniel's group.[14] And it is also worth mentioning that shortly after Nathaniel's killing, on that very same night, Tomas Quinones himself, claiming self-defense, stabbed Oscar Lauron, an employee of Marmita.[15]

Against this background, the motive for the killing of Nathaniel Quiñones becomes readily apparent. The evidence of the "masiao" operations is not hearsay, as contended by the defense. They were described of their own personal knowledge by Aruta and the victim's mother, not to mention Tomas Quiñones. This witness also declared that his cousin Nathaniel was a coordinator of another organization in competition with Marmita's gambling business.[16]

Asked why Nathaniel and his family were hostile to him; Marmita said they probably envied him his station in life and financial success and resented his not mixing with them because of their activities.[17] This is hardly credible. Mere envy of one who, significantly, has not mixed with them at all is in the view of the Court not a plausible explanation for their accusing him of such a serious crime as murder.

The defense of alibi is far from convincing. As suggested by the Solicitor General, "it would not be surprising if a policeman would testify in (Marmita's) favor," considering that he "is a local gambling lord,"[18] with all its implications. Moreover, there is no satisfactory explanation for the unloading of the construction materials from 9 to 11 o'clock in the evening of June 11, 1983, when they were landed in Tacloban City on June 5, 1983, and could have been claimed on an earlier date and unloaded more conveniently in the daytime. Additionally, the distance from Jaro to Barangay San Vicente is about three kilometers only[19] and could have been negotiated within minutes to enable Marmita to commit the crime and return to Jaro without much difficulty.

The defense points to certain flaws in the evidence of the prosecution, but it is our view that they do not impair its essential credibility or justify the conclusion that the accused-appellant was erroneously convicted.

It is argued that Tomas Quiñones was not a reliable witness because he said Nathaniel was shot in the breast and stomach when the medical report showed that he was shot in the back; that Nathaniel could not have identified Marmita as the killer because the victim was already dead or unable to speak at that time, as testified by Pat. Mesina; and that Tomas did not immediately point to Marmita as the killer and in fact named "a man of Ite" and later Ansoy Marmita as the person who shot Nathaniel.

The defense also questions the belated presentation of Edgar Pulga, who was not even listed as a prosecution witness and by his own admission informed his mother-in-law that Marmita was the killer only after four days following the incident.

As for Nathaniel's dying statement that he was shot by Marmita, the defense wonders how the victim could have

known his killer inasmuch as the shots came from behind and the victim fell forward and could not look back at his assailant.

Tomas Quiñones said the victim was shot in the breast and stomach not in his testimony at the trial but in the statement he gave the police on July 8, 1982.[20] He did not specifically affirm it at the trial, where he said he was not sure if the last two shots had hit the victim.[21] At any rate, it is remembered that he approached the victim after the shooting and must have gotten the impression that the wounds were in the places indicated because of the blood in Nathaniel's front from the point of exit of the first bullet. This was explained by Dr. Angel Cordero, who conducted the autopsy, thus:

Q So, Doctor, you are sure now that this first wound Exhibit "B-1" the point of entrance of the bullet was at the back, the lower chest as you mentioned, is that correct?

A Yes, sir.

Q Did it pass thru the body? The bullet came out on the posterior part of the man?

A No. The slug went outside the body not on the posterior or back part of the body but at its front anterior part of the body.

Q So, from the back the bullet came out in the front?

A Yes, your honor.[22]

As for the victim's alleged inability to reveal his killer because of his condition shortly before his death, the same witness declared as follows:

Q Considering these two wounds doctor would you say that the victim would not be able to speak anymore?

A Well, this particular wound specially this fired wound is considered as mortal wound because it involved the mortal organ of the body, but it does not mean that he is going to die there and there or will produce instantaneous death.

Q Would he be deprived of speech?

A No, your honor.[23]

We may agree with the theory that Nathaniel could not have seen his killer as he was shot in the back. But even without his statement, there is sufficient evidence pointing to Marmita as the person who shot him from behind and continued to shoot him as he lay prostrate on the ground.

According to the Solicitor General, Tomas Quiñones' delay in identifying the killer must have been due to his fear of reprisal from the accused, whom he knew to be a powerful and influential person. We accept this explanation. There is no showing that the trial judge abused his discretion in rejecting the testimony of the defense witnesses that Tomas had identified other persons as the killer. It was for him to assess the credibility of the witnesses after observing their conduct on the stand and examining their motives.

Pulga's failure to immediately come forward to denounce his brother-in-law's killer is understandable. It appears that he had eloped with the victim's sister and later married her in a civil ceremony without her mother's blessings.[24] In fact, even during the wake for Nathaniel, he and his mother-in-law were still not on speaking terms and it was to his other brother-in-law, Carlos Quiñones, that he reported having seen Nathaniel's shooting.[25] He was later asked to testify because Ruben Tualla, Nathaniel's companion on the night of the crime, was reportedly "bought" by the accused-appellant to stay away. In his testimony, Pulga explained that he did not immediately succor his brother-in-law because he did not know then that the victim was Nathaniel.[26]

We note with disapproval the observations of the trial court regarding the unreliability of the results of the paraffin test conducted on Alfredo Marmita, Jr. The fact is that the test was conducted not on the accused-appellant but on Adriano Marmite, who is not involved in this case. The paraffin test is entirely irrelevant except as an indication of the carelessness of the judge in the consideration of the evidence before him. Although his error has not detracted from the correctness of his conclusion finding the accused-appellant guilty, Judge Dacuycuy is admonished against similar negligence in the future.

It is clear that the killing of Nathaniel Quiñones was attended with treachery as he was shot in the back and even when he was already helpless on the ground. The crime committed was murder and, there being no modifying circumstance, the accused-appellant was correctly subjected to the penalties imposed in the decision of the trial court.

There is strong evidence in this case of the prevalence of "masiao" in the province of Leyte and the involvement of many persons in this vicious type of gambling that is draining the resources, and even the lives, of many persons. Weakening the moral fiber of the people, including possibly those charged with the enforcement of the laws, it is also staining the name of the entire province, and blighting its future, with its dark record of corruption and lawlessness. It is hoped that the authorities will take the needed resolute action against this serious but not insoluble problem and liberate the persons caught in its web from its virulent addiction.

WHEREFORE, the above sentence is AFFIRMED, with costs against the accused-appellant. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 9-16.

[2] TSN, December 6, 1982, pp. 5-12.

[3] TSN, April 11, 1984, pp. 181-183.

[4] TSN, March 26, 1986, pp. 254-257.

[5] TSN, June 20, 1985, pp. 4-7.

[6] TSN, September 27, 1985, pp. 92-94.

[7] TSN, January 14, 1986, pp. 227-229.

[8] TSN, January 11, 1985, p. 195.

[9] TSN, October 25, 1985, pp. 212-213.

[10] TSN, February 22, 1985, pp. 135-136.

[11] TSN, November 19, 1984, p. 43.

[12] Ibid., pp. 35-40.

[13] TSN, July 19, 1983, pp. 17-19.

[14] TSN, November 19, 1984, pp. 49-51.

[15] TSN, December 6, 1983, pp. 18-20.

[16] TSN, November 19, 1983, p. 36.

[17] TSN, March 26, 1986, pp. 268-269.

[18] Rollo, p. 79.

[19] TSN, December 6, 1983, p. 6.

[20] Original Records, p. 2.

[21] TSN, March 21, 1984, p. 160.

[22] TSN, November 7, 1983, pp. 10-11.

[23] Ibid., pp. 35-36.

23 TSN, June 18, 1984, pp. 9-10.

24 TSN, July 19, 1984, PP. 10-11.

25 TSN, June 18, 1984, pp. 6-7.

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.