

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DAVID POSADAS, SR., DAVID POSADAS, JR., RODOLFO MORALES ALIAS “RUDY”; FRANKLIN BUENAVISTA, MARCIAL POSADAS, DANILO POSADAS...

G.R. Nos. 101564-65. September 30, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Accused David Posadas, Sr., Danilo Posadas, Marcial Posadas and Franklin Buenavista were found guilty beyond reasonable doubt of the crime of murder in a decision rendered in Criminal Case No. 18269, dated 27 March 1991.* The said four (4) accused were, however, acquitted of the charge of violation of Presidential Decree 1866 (Illegal Possession of Firearms). The case against their co-accused, Rodolfo Morales, was dismissed due to his death on 18 July 1988 while the three (3) other co-accused, David Posadas, Jr., Alfredo Magno and Anastacio Bartulina alias Anastcio Batilano, remain at-large.

On 9 December 1992, accused David Posadas, Sr., Marcial Posadas and Danilo Posadas filed an "Urgent Motion to Withdraw Appeal"[1] which was granted by this Court on 5 July 1993, after requiring and receiving the comment of the Office of the Solicitor General interposing no objection to said withdrawal of appeal.

The Court therefore will review this case only to determine whether or not the prosecution has proved the guilt of accused-appellant Franklin Buenavista with moral certainty as to overcome the constitutional presumption of his innocence.

The facts established by the accused, turned state witness, Conrado Gatilago are as follows:

On 13 August 1984, David Posadas, Sr. went to visit Rodolfo Morales alias "Rudy" at the latter's house in Alta Tierra Village, Jaro, Iloilo City. Gatilago who was the caretaker of Morales' poultry farm testified that on that day David Posadas, Sr. was trying to convince Rodolfo Morales to kill a certain Arthur Maravilla.[2]

In the afternoon of 13 August 1984, David Posadas, Sr. met with David Posadas, Jr., Marcial Posadas, Danilo Posadas, Alfredo Magno, Anastacio Bartulina, Rodolfo Morales and Conrado Gatilago. It was then that the group agreed to kill Maravilla.[3]

David Posadas, Sr. later distributed various firearms to the group and he also ordered David Posadas, Jr. to proceed to Tambalisa Island, Concepcion, Iloilo to verify if Maravilla was still residing there. When David, Jr. returned with news that Maravilla was at his house, the group proceeded to Tambalisa Island where they spent the night at Alfredo Magno's house. The next day they each test-fired their firearms in preparation for their diabolical plan to eliminate Maravilla. Later that day, the group proceeded to the house of accused-appellant, Franklin Buenavista, which was near Maravilla's house to inquire if the latter was at home. Buenavista answered in the affirmative.[4] The group left immediately and appellant Buenavista was left behind.

The group then met Eliseo Santos, Maravilla's caretaker whom they proceeded to maul and manhandle and later tied to a tree. The group later returned to Buenavista's house and David, Sr. ordered Buenavista to call Sixto, Eliseo Santos' son and Maravilla's helper to tell him that his father was tied to a tree. Gatilago testified that the purpose of calling Sixto Santos was to make sure Maravilla would be left alone inside his house.[5] Appellant Buenavista did as he was ordered and Sixto Santos and another unidentified man came out after which David, Jr. and Morales fired at the two (2) men forcing them to flee. It was at this point that Maravilla came out of his house. David, Jr. then shot Maravilla hitting him on both thighs causing him to fall down. Morales and Bartulina likewise shot Maravilla while David, Jr. later hacked the victim with a bolo. Maravilla died on the spot of thirty-six (36) gunshot wounds and several hack wounds.

Accused-appellant Franklin Buenavista assigns a single error to the trial court:

"X X X IN CONVICTING THE ACCUSED FRANKLIN BUENAVISTA OF THE CRIME OF MURDER ON THE GROUNDS THAT THE FACTS DO NOT WARRANT SUCH CONVICTION AND THE GUILT OF THE ACCUSED WAS NOT PROVED BEYOND REASONABLE DOUBT."[6]

The trial court convicted accused-appellant Franklin Buenavista based on the finding that "the defense of alibi is worthless in the face of positive identification by credible prosecution witnesses."[7]

While it is true that alibi is a weak defense which can be appreciated only when it is clearly established that it was impossible for the accused to be at the scene of the crime at the time when it was committed, the Court also is aware that an alibi, albeit genuine, cannot in all cases be adequately proven.[8] In the *Albores* case, this Court had occasion to quote Mr. Justice J.B. L. Reyes in the case of *People v. Fraga*[9] that:

"The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, we will see the absurdity of an accused being put in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."

In the case at bench, the constitutional presumption of Buenavista's innocence dictates that the prosecution's evidence be examined independently of accused-appellant's alibi. Indeed, the testimony of state witness Conrado Gatilago may have established the presence of Buenavista at the scene of the crime at the time it was committed but the question is: did the evidence clearly establish Buenavista's participation in the killing of Maravilla?

The Solicitor General in a "Manifestation and Motion in Lieu of Brief" prays for the acquittal of accused-appellant Franklin Buenavista based on two (2) grounds, namely: (1) there is no evidence to prove appellant's participation in the murder of Arthur Maravilla and (2) appellant was coerced to call for Sixto Santos to come out.[10]

We agree with the Solicitor General and consequently we reverse the trial court's conviction of accused-appellant Franklin Buenavista.

It should be noted that the testimony of Conrado Gatilago established that Franklin Buenavista merely verified that the victim, Arthur Maravilla was at home. The reply of Buenavista was a response to the inquiry posed by David, Sr. and his group.[11] Nowhere in Gatilago's testimony was it shown that Buenavista was an active or willing participant in the plan to liquidate Maravilla. His alleged participation in luring Sixto Santos out of the house is belied by Gatilago's own testimony, to wit:

"Q: Was there any conversation that transpired further between your group and Franquilino (Franklin) Buenavista?

A: Yes, sir.

Q: What was that?

A: David Posadas, Jr. ordered that the son of the old man who was Sixto be called.

Q: Called for what purpose?

A: To inform Sixto that his father, the old man, was already tied on (sic) a tree.

Q: For what purpose was the information to be given?

A: So that Sixto will come out of the house of Arthur Maravilla so that Arthur Maravilla will be left alone and it will be easy to kill him.

Q: Is this Sixto that you mentioned is the son of (sic) the old man staying inside the house of Arthur Maravilla?

A: Yes, sir.

Q: So what did Franquilino Buenavista do when he was instructed to execute their instruction?

A: Franquilino Buenavista obey (sic) the order and called Sixto that his father was already tied up there on the tree." [12] (emphasis supplied)

The guilt of Franklin Buenavista cannot be based on mere conjectures that he became part of the conspiracy by verify-ing that the victim was at home and obeying the order of David, Jr. to call Sixto. The Court takes note of the fact that the group of David, Jr. was composed of no less than eight (8) fully-armed men and it would not take much logic or experience to infer that Buenavista acted out of a natural sense of self-preservation when he followed the orders of David, Jr. The doubt as to guilt must be resolved in favor of the constitutional presumption of his innocence.

WHEREFORE, the decision appealed from is hereby REVERSED, as to appellant Franklin Buenavista, based on reasonable doubt. The accused-appellant Franklin Buenavista is hereby ACQUITTED and ordered immediately released unless he is being detained for other legal grounds.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

* Regional Trial Court, Branch 38, Iloilo City, presided over by Judge Roger B. Patricio.

[1] Rollo, p. 24

[2] TSN, 17 May 1985, pp. 8-10

[3] TSN, 17 May 1985, pp. 11-13

[4] TSN, 17 May 1985, pp. 16-21

[5] Ibid, p. 26

[6] Rollo, p. 210

[7] Trial Court decision, p. 18

[8] People v. Albores, G.R. Nos. 101122-23, 9 December 1992, 216 SCRA 302

[9] G.R. No. L-12500, 31 August 1960, 109 Phil. 241

[10] Rollo, pp. 266 and 269

[11] TSN, 17 May 1985, p. 21

[12] TSN, 17 May 1985, pp. 25-26

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