

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS LAGNAS, AGUSTIN LAGNAS, CORITO ARRIESGADO AND JOHN DOES, ACCUSED, JESUS LAGNAS, AGUSTIN LAGNAS AND CORITO ARRIESGADO, AC...

G.R. Nos. 102949-51. May 28, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellants Jesus Lagnas, Agustin Lagnas and Corito Arriesgado were indicted on August 3, 1988 in Criminal Cases Nos. TCS-918, TCS-919 and TCS-920 of the Regional Trial Court of Toledo City, Branch 29, of three (3) crimes of murder, each of which was charged in a separate amended information of the following substantially identical tenor:

(1) Amended Information in Crim. Case No. TCS-918

"The undersigned 3rd Assistant Provincial Fiscal of Cebu hereby accuses JESUS LAGNAS, AGUSTIN LAGNAS, CORITO ARRIESGADO, MARCIAL ARRIESGADO, GODIE ARRIESGADO, ROMEO ARRIESGADO, HELEN ARRIESGADO, MELANIA ARRIESGADO, AND JOHN DOES of the crime of Murder, committed as follows:

That on the 3rd day of March, 1988 at 5:30 o'clock in the afternoon at Barangay Agbanga, Municipality of Asturias, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with the accused who are referred to herein as JOHN DOES, their names and identities not being established, conspiring, confederating and mutually helping one another, armed with (G)arands, carbines, shot gun (sic) and other types of firearms, with intent to kill, did then and there, with treachery and evident premeditation, wilfully, unlawfully and feloniously waylay, attack, assault and shoot ALEJANDRO ARIAS, a member of the Integrated Civilian Home Defense Force (ICHDF), hitting said ALEJANDRO ARIAS on different parts of his body, thereby causing his instantaneous death.

CONTRARY TO LAW."[1]

(2) Amended information in Crim. Case No. TCS-919

"The undersigned 3rd Assistant Provincial Fiscal of Cebu hereby accuses JESUS LAGNAS, AGUSTIN LAGNAS, CORITO ARRIESGADO, GODIE ARRIESGADO, MARCIAL ARRIESGADO, ROMEO ARRIESGADO, HELEN ARRIESGADO, MELANIA ARRIESGADO, and JOHN DOES of the crime of Murder, committed as follows:

That on the 3rd day of March, 1988, at 5:30 o'clock in the afternoon at Barangay Agbanga, Municipality of Asturias, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with the accused who are referred to herein as JOHN DOES, their names and identities not being established, conspiring, confederating and mutually helping one another, armed with (G)arands, carbines, shot guns (sic) and other types of firearms, with intent to kill, did then and there, with treachery and

evident premeditation, wilfully, unlawfully and feloniously waylay, attack, assault and shoot VENANCIO NARA, a member of the Integrated Civilian Home Defense Force (ICHDF), hitting said VENANCIO NARA on different parts of his body, thereby causing his instantaneous death.

CONTRARY TO LAW."[2]

(3) Amended Information in Crim. Case No. TCS-920

"The undersigned 3rd Assistant Provincial Fiscal of Cebu hereby accuses JESUS LAGNAS, AGUSTIN LAGNAS, CORITO ARRIESGADO, GODIE ARRIESGADO, ROMEO ARRIESGADO, MARCIAL ARRIESGADO, HELEN ARRIESGADO, MELANIA ARRIESGADO, and JOHN DOES of the crime of Murder, committed as follows:

That on the 3rd day of March, 1988 at 5:30 o'clock in the afternoon at Barangay Agbanga, Municipality of Asturias, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, together with the accused who are referred to herein as John Does, their names and identities not being established, conspiring, confederating and mutually helping one another, armed with (G)arands, carbines, shot guns (sic) and other types of firearms, with intent to kill, did then and there, with treachery and evident premeditation, wilfully, unlawfully and feloniously waylay, attack, assault and shoot VIVENCIO MADRID, a member of the Integrated Civilian Home Defense Force (ICHDF), hitting said Vivencio Madrid on different parts of his body, thereby causing instantaneous death.

CONTRARY TO LAW."[3]

Duly assisted by counsel, herein appellants pleaded not guilty at the arraignment,[4] while the rest of the accused who were not apprehended and are at large were never arraigned. A joint trial was thereafter conducted insofar as appellants were concerned.[5] Incidentally, the records are not clear on why the five additional accused were included in the amended informations, much less on their supposed complicity in the incident. In fact, the sole witness of the prosecution on this point, Renato Sevilla, testified that on that occasion he never saw the accused Marcial, Dodie, Romeo, Helen and Melanie Arriesgado.[6]

The Solicitor General summarizes the factual antecedents of these cases as perceived by the prosecution, with page references to the transcripts of the stenographic notes of the trial, as follows:

"x x x on March 3, 1988, at about, 5:30 o'clock in the afternoon, prosecution eyewitness Renato Sevilla, a member of the Integrated Civilian Home Defense Force (ICHDF) and residing at Old Bago, Asturias, Cebu, was with his fellow ICHDF members Vivencio Madrid, Venancio Nara and Alejandro Arias and civilians Wenceslao Ynoy and Madrid's wife Flor(i)sita. Three of them were armed with firearms. They were on their way home and while passing by a river and walking uphill, they were ambushed or gunshots were fired towards their direction at Barangay Agbanga, Asturias, Cebu. Venancio Nara was hit immediately by bullets fired from a (G)arand rifle and fell down the river. He was hit on the breast and his head was blown off and (he) died instantaneously. Alejandro Arias was also hit by bullets from a (G)arand rifle or rifles on the front and at the back column of his body and likewise died immediately. Vivencio Madrid was also hit by bullets and was brought to a hospital where he expired later. Wenceslao Ynoy was also hit by bullets on the arms but survived and went or migrated to Mindanao (pp. 2-4, t.s.n., November 22, 1989).

"Because Sevilla was already alone and could not fire back, he had to run away but before doing so he had to first advise and let Flor(i)sita Madrid run away ahead of him and as he looked back at Flor(i)sita who was behind him he saw and positively identified appellants Jesus Lagnas, Agustin Lagnas and Corito Arriesgado from a distance of five (5) meters as among their ambushers. He knew appellants for a long time already because Jesus Lagnas and he are neighbors while Agustin Lagnas resided in Barangay Baye and Corito Arriesgado lived in the adjacent Barangay Bairan. Jesus and Agustin Lagnas were armed with (G)arand rifles while Corito Arriesgado was armed with a carbine rifle (sic) (pp. 4-7, t.s.n. November 22, 1989).

"The following day, or March 4, 1988, Sevilla and his superior, Lt. Manuel, accompanied by their comrades, proceeded to the scene of the incident, sought and found appellants at the house of Jesus Lagnas where they were arrested and later brought to the police station at Lutopan. The relatives of the victims Venancio Nara, Alejandro Arias and Vivencio Madrid and of the injured Wenceslao Ynoy were also informed of what happened to their kins (pp. 8-9, t.s.n. November 22, 1989)."[7]

On the other hand, the defense presents the following statement of facts, likewise with page references to the transcript of stenographic notes, to wit:

"The accused are young, carefree, and typical farmhands of the mountain barangays of Bairan, and Baye, Asturias, Cebu, Philippines. At the time of their arrest at dawn that Sunday of 6 March 1988 (Q3, pp. 5, TSN-marilyn t. oliverio, 24 June 1991), Agustin Lagnas was only seventeen (17) years old, Jesus Lagnas, twenty-three (23) years old, and Cor(i)to Arriesgado, twenty-six (26) years old. The first two are brothers while the third is the brother-in-law, the latter having married the sister of the Lagnas brothers.

"As usual for the three (3) accused in their pursuit to earn a living for their families, accused-appellant, Agustin Lagnas got himself hired in the farm of Gregoria Limutin Trocio, in Bgy. Bairan, Asturias, Cebu, from 29 February 1988 up to, and including 4 March 1988 (Q4, pp. 3, TSN--M.D. Destura, 5 August 1991).

"From 29 February 1988 to 4 March 1988, Agustin Lagnas was home in Bgy. Bairan not earlier than 5:00 o'clock in the afternoon (Q5, pp. 4, TSN-M.D. Destura, 5 August 1991).

"Accused-appellant, Cor(i)to Arriesgado, was contracted by the Bgy. Councilor of Bgy. Baye, Emiliano Casas, to cut fifty (50) bamboos in the house of the latter the whole day of 3 March 1988 (Q1, pp. 4, TSN-marilyn t. oliverio, 24 June 1991). On this day of 3 March 1988, Cor(i)to Arriesgado, was in the house of Casas from 7:00 o'clock in the morning, and went off only at past 5:00 o'clock in the afternoon (Q6, pp. 3, TSN--marilyn t. oliverio, 24 June 1991).

"Similarly, Jesus Lagnas was also preoccupied with his employment in the farm owned by Generoso Sevilla, the whole day of 3 March 1988, from 7:00 o'clock in the morning until 4:30 o'clock in the afternoon (Q3, pp. 3, TSN-A.A. Delica, 24 April 1991). This farm is located in Bgy. Baye, Asturias, Cebu.

"Meanwhile, an ambush killing which resulted in the death of three (3) ICHDF men, namely: Vivencio Madrid, Venancio Nara, and Alejandro Arias, and the wounding of one civilian, Wenceslao (Y)noy, occurred at Bgy. Agbanga, Asturias, Cebu, at 5:30 o'clock in the afternoon of 3 March 1988 (Q7, pp. 3, TSN a.g. mansueto, 22 November 1989). Barangay Agbanga is a two-hour hilly walk from Bgy. Baye, and about the same hours of travel on foot from Bgy. Bairan, with no transportation available.

"Said ambush involved the lone prosecution witness, Renato Sevilla, a member of the ICHDF, Vivencio Madrid, Florisita Madrid (wife of Vivencio), Venancio Nara, Wenceslao (Y)noy, and Alejandro Arias. Of the six, Renato Sevilla, Florisita Madrid, and Wenceslao (Y)noy survived the ambush (Q13 & 15, pp. 4, TSN-a.g. mansueto, 22 November 1989).

"On 6 March 1988, at 3:00 o'clock dawn on a Sunday, the three (3) accused-appellants who passed the night at the house of accused-appellant, Jesus Lagnas, in Bgy. Baye were arrested on suspicion of complicity in the ambush?killing."[8]

Reposing credence in the submissions of the prosecution, the court below rendered judgment jointly in the three cases on October 18, 1991,[9] disposing in this wise:

"WHEREFORE, in view of the foregoing considerations, this Court finds accused, Jesus Lagnas, Agustin Lagnas and Corito Arriesgado:

1. In Crim. Case No. TCS-918 - guilty beyond reasonable doubt of Murder under Art. 248 of the Revised Penal

Code and hereby sentence(s) all the accused to suffer the penalty of Reclusion Perpetua and to jointly and solidarily indemnify the Hrs. (sic) of the offended party the amount of P50,000.00 and to pay the cost;

2. In Crim. Case No. TCS-919 - finding all the accused guilty beyond reasonable doubt of Murder under Art. 248 RPC and hereby sentence(s) all the accused to suffer the penalty of Reclusion Perpetua and to jointly and solidarily indemnify the Hrs. (sic) of the offended party the amount of P50,000.00 and to pay the cost;

3. In Crim. Case No. TCS-920 - finding all the accused guilty beyond reasonable doubt of Murder under Art. 248 RPC and hereby sentence(s) all the accused to suffer the penalty of Reclusion Perpetua and to jointly and solidarily indemnify the Hrs. of the offended party the amount of P50,000.00 and to pay the cost;

However, they are given full credit of (sic) their preventive imprisonment provided they complied with the rules and regulations of a convicted prisoner (sic).

SO ORDERED."[10]

In a bid to obtain the reversal of the lower court's judgment, appellants have come to us, faulting the court below with the following errors: (1) The lower court erred in outrightly disregarding accused's defense of alibi and denial; and (2) The lower court erred in convicting the accused upon the untruthful, uncorroborated, and therefore incredible testimony of the lone prosecution witness, where it appears that there are several witnesses to the commission of the crime of murder.[11]

It is a cardinal rule in our criminal justice system that to deprive a person of his precious life or liberty, the evidence against him must stand the crucible test of reasonable doubt to overthrow the constitutionally guaranteed presumption of innocence he has in his favor. This proof beyond reasonable doubt is the degree of proof that, after investigation of the whole record, produces moral certainty in an unprejudiced mind of the accused's culpability.[12]

While it is a rule that the findings of the judge who tried the case and heard the witnesses are not to be disturbed on appeal, this Court will not hesitate to take exception to this rule on finality of the trial court's factual findings if there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.[13]

In the cases at bar, the conviction of herein appellants was predicated on the testimony of the lone prosecution witness, Renato Sevilla. We are, therefore, constrained to put the latter's alleged eyewitness testimony in the lower court under close scrutiny and meticulous evaluation in order to determine whether or not the evidence of the prosecution anchored on that sole evidentiary mooring is strong enough to produce conviction under an impartial assessment.

Our review and calibration of the testimony of this witness reveals that he is sorely lacking in that desirable and indispensable consistency which would inspire belief in his credibility or even in the accuracy of his vaunted observations both of the details of the incident and the *dramatis personae* therein. We do not agree, as the prosecution expectedly argues, that the conflicting statements of the witness pointed out by the defense[14] are supposedly only minor or trivial in nature. On the contrary, we are convinced that the credibility of witness Sevilla has been seriously eroded and gravely placed in dubiety by his very own assertions on the witness stand and, as we have discerned, by his obvious tendency to improvise upon being confronted with his errors and when he could not credibly gloss over the same.

Firstly, when asked what he did during the attack on his group, this was what he said:

"Q What did you do at that time?

A I ran, Sir, because I was alone left (sic) and I could not fire back. I just ran away.[15]

x x x

Q Now, what did you do after seeing and looking back (at) the three persons?

A I ran away.

Q Towards where?

A I ran towards another barrio, Banban, sir."[16]

On cross-examination, however, he admittedly injected a completely new improvisation to his original story, thus:

"Q In the actual shooting when you saw Venancio Nara was hit did you also see Vivencio Madrid being hit?

A Yes, but before he was hit the other group was hit so we were two who exchanged fires (sic) with the armed men.

Q Now, you said that the two of you exchanged fires (sic) with the armed men. Who were these two?

A V(i)encio Madrid.

x x x

Q And who was the second person who exchanged fires (sic) with the ambushers?

A I was the one who exchanged fires (sic) also.

Q Now, you are now testifying that you fired at the ambushers. Was it not that you testified before this Honorable court on direct examination that you were not able to fire your gun because it got stocked-up (sic)?

A Yes, when I crawled on the ground my firearm was filled with sand or soil. That is why it got stocked up (sic).

x x x

Q And when you were asked on the direct examination nothing was mentioned that you exchanged fires (sic) with the armed men. It is only now that you said that you exchanged fires (sic) with the armed men, is it correct?

A Yes,"[17]

If it were true that he did fire back at their attackers, he could not have failed to mention this very significant detail in his sworn statement which was executed on March 6, 1988, or three days after the ambush.[18] It is evident that he was more likely to remember the details of the incident at the time it happened, and forget them as the years pass by. In effect, this witness would want us to subscribe to the idea that he could better remember the details of the event almost three years later than when the same occurred and the facts were still fresh in his mind.

Secondly, when he was made to realize that he had made several contradictory statements in his affidavit vis-a-vis his testimony in open court, he tried to cover up his tergiversation by blaming the one who prepared his sworn statement. In the process, however, the falsity of his subterfuge was readily exposed.

"Q x x x why is it that in your direct examination you said that Agustin Lagnas (was) armed with a (G)arand, and in your affidavit no. 23 you said that Agustin Lagnas was armed with a shotgun, why is this so?

A The one who prepare(d) the affidavit perhaps made an error.

x x x

Q Now, you signed your sworn statement which is also marked as Exh. 1-A, and when you signed this sworn statement, was it not read to you before you signed?

A No, it was not read, I just signed it.

Q But it was given to you to be read?

A No, it (was) just shown to me.

Q Did you not insist in reading it?

A No.

Q You did not also insist (on) having it read before you?

A No, sir I (was) just merely told that this is the affidavit."[19]

Unfortunately for this witness, he had obviously forgotten that he had previously given an altogether different story on this score:

"Q Now, Mr. Sevilla, this sworn statement that you have executed on the 6th day of March 1988 was prepared by Sgt. Carmelo V. Enriquez. Before you signed this, did you read the contents of this sworn statement, or was this sworn statement read to you by Sgt. Carmelo Enriquez?

A It was read to me by Carmelo Enriquez.

Q Now, after having read, or after this sworn statement of yours ha(d) been read to you and having found no objection therein, that was the time you signed your affidavit, is that correct?

A Yes."[20]

It is a pity, but likewise a disgusting situation, that with the hopes of the prosecution's case having been pinned on the credible performance of their star witness, the latter not only failed to deliver creditably but actually revealed that the truth did not sit on his lips which, instead, articulated the prevarications so often condemned but just as often perpetrated in court.

Thirdly, when asked to identify the malefactors, which identification is the testimonial linchpin of a criminal prosecution, Sevilla this time crowned his nauseating travesty of the judicial process by committing another irreversible blunder:

"Q Now, how long have you known Jesus Lagnas?

A Since my boyhood until I reached the age of reason.

Q Why, where is your house located and the house of Jesus Lagnas?

A Just opposite each other.

Q How long have you known Agustin Lagnas?

A I do not know how many years, but it is quite a long time ago.

Q Now, where is his house and your house located?

A The house of Agustin Lagnas is located at Bairan, Asturias, Cebu.

Q Why do you know Agustin Lagnas?

A That Bairan and Baye are just adjacent baran-gays, that is why I know Agustin Lagnas.

Q How about Corito Arriesgado, how long have you known him?

A I do not know how many years.

Q Would it be more than two (2) years?

A More than two (2) years.

x x x

Q If they are in the courtroom could you iden-tify them?

A Yes, sir.

Q Will you please point to them.

A (Witness pointing to a man wearing yellow T-shirt).

Atty. Kinaadman:

I would like to make it of record that the witness was pointing to a person whom he called as Jesus Lagnas, and the accused answered (by) the name Corito Arriesgado, Your Honor.

Fiscal Truya:

Q The other accused, can you point to him?

A (Witness pointing to the accused).

Atty. Kinaadman:

We make it of record that the witness pointed to a person whom he called as Jesus Lagnas, and yet the person answered by the name of Agustin Lagnas, Your Honor.

Fiscal Truya:

Q You made mention of Cor(i)to. Where is he now?

Atty. Kinaadman:

Your Honor, I would like to take note that Cor(i)to Arriesgado already answered his name when he was referred to as Jesus Lagnas by the witness."^[21]

It is true that in *People vs. Reception*,^[22] we held that "(i)dentification of a person is not established solely through knowledge of the name of that person. Familiarity with the physical features, particularly those of the face, is actually the best way to identify the person." Never-theless, considering the factual circumstances of these cases, the aforequoted ruling is not adverse but even favorable to the prosecution. Renato Sevilla asserted that he knew the appellants very well, in fact over a period of years and with proximity in their residences. It would, therefore, be unimaginable, if not downright impossible, for him not to have properly identified them. Moreover, in the rural areas of the provinces, people tend to be familiar with their neighbors names or identities, and even the relatives, genealogical lineage and social antecedents of the latter.

In view of the foregoing demonstrated facts, the consistent ruling of this Court that where conditions of visibility are favorable and the witness does not appear to be biased against the man on the dock, his other assertions as to the identity of the malefactor should normally be accepted,^[23] is inapplicable to the cases at bar. Furthermore,

witness Sevilla strongly appears to be biased against appellants considering that the latter rejected his offer to join him in the Integrated Civilian Home Defense Force (ICHDF).[24] Contrary to the lower court's observation,[25] we find such rejection sufficient to provoke Sevilla to implicate herein appellants since their refusal of ICHDF membership could have been construed by him to mean, as he did repeatedly imply,[26] that their sympathies were with the Communists whose rebellious activities the ICHDF was created to suppress.

We also cannot but wonder why the two other victims, Wenceslao Ynoy and Florisita Madrid, were not presented in court. With regard to the latter, her testimony was ordered dispensed with when she failed to show up despite several routine notices.[27] We know that it is up for the prosecution to determine who to present as witnesses.[28] However, as in the instant case, when the lone prosecution witness committed inexplicable testimonial lapses which virtually rendered unacceptable any pretense as to his credibility, the prosecution's passivity is significant and revealing. Ynoy and Madrid, both supposed eyewitnesses to the incident, should necessarily have been presented to corroborate and bolster Sevilla's testimony and it was definitely within the capability and power of the State to arrange for or compel their presence in court. For, it is the obligation of the prosecution to prove its allegations, not of the defense to disprove them.[29] Besides, since Florisita Madrid is the wife of the victim, Vivencio Madrid, it is to be expected that she would normally be interested and more conscientious in pursuing the case to demand and exact justice from the felons. The failure on the part of the prosecution to produce these witnesses under the obtaining circumstances gives rise to the presumption that, if produced, their testimony would be adverse to the case for the prosecution.[30]

Now, it is true that appellants rely heavily on their defense of alibi. While alibi is admittedly a weak defense, this Court, however, does not at once look upon it with disfavor nor does the Court have a mental prejudice against the accused who use it as their defense, for the defense of alibi does not relieve the prosecution of the required quantum of proof. Further, the rule that alibi must be satisfactorily proven has never been intended to shift the burden of proof in criminal cases.[31]

It is also the rule that for alibi to prosper, it must be convincing as to preclude any doubt that the accused could not have been physically present at the place of the crime or its vicinity at the time of its commission.[32] In the instant cases, we believe that the defense has sufficiently established that it was physically impossible or, at the least, highly improbable for appellants to be at the scene of the incident at the time of the ambushade.

Gregoria Limutin Trocio categorically established that appellant Agustin Lagnas worked for her in her farm at Barangay Bairan up to 4:30 in the afternoon of March 3, 1988.[33] Generoso Sevilla was positive that at 4:30 P.M. on the same date, appellant Jesus Lagnas was actually still working in his farm at Barangay Baye.[34] As for Corito Arriesgado, he finished cutting bamboos for Emiliano Casas, at 5:00 P.M. at Barangay Baye.[35] These witnesses, therefore, proved without contradiction that appellants worked with them until at least 4:30 P.M. or even later, and that none of them had left earlier.

The same witnesses, including herein appellants, likewise sufficiently demonstrated that the distance between Barangays Baye and Bairan, where the later were working, and Barangay Agbanga, where the ambush transpired, and the nature or condition of the road between these places made it virtually impossible for appellants to traverse the same and be at Barangay Agbanga at 5:30 P.M. when the attack happened. Gregoria Limutin Trocio informed the trial court thereof, in answer to these questions:

"Q Do you know a barangay Agbanga?

A Yes.

Q How far is your place to barangay Agbanga?

A If walking, it is around 3 hours walk. Maybe 5 to 7 kilometers.

Q Now, how do you go to Agbanga riding a vehicle?

A By walking.

Q Could it not be passable by a vehicle?

A No."[36]

On his part, Emiliano Casas declared:

"Q What is the means of transportation in going to Agbanga from Baye?

A No vehicle will go to our place because there is no road."[37]

which appellant Jesus Lagnas corroborated from the aspect of travel time:

"Q How far is that from Baye?

A Quite far. When a person will take a walk, it will reach around two hours."[38]

Appellant Corito Arriesgado explained the topographical problems and difficulty of travel between the places involved:

"Q Do you know how far is Agbanga to Baye?

A Quite far, if we have to walk it could be reach(ed) more or less two (2) hours.

Q Could the place be negotiated by a vehicle?

A If there is no flood the vehicle can pass to that place because it can pass on the river, if there is flood no vehicle can pass that place."[39]

and this was confirmed by appellant Agustin Lagnas without any countervailing reaction from the prosecution:

"Q How far is the place (from) Agbanga to Bairan?

A In walking it took two hours.

Q Could it be negotiated by passenger bus?

A No, sir."[40]

It is also worth mentioning that the place where the ambush happened is a mountainous area.[41] This and the aforesaid facts were never refuted by the prosecution.

Besides, considering the nature of ambuscades, to be able to participate therein appellants had necessarily to be at the scene of the incident several minutes before the attack so as to insure its success. There should be sufficient time for the attackers, even assuming that there had already been due pre-arrangement, but on which not even a scintilla of evidence has been adduced, to position themselves and lie in wait for their prey. On the contrary, it was convincingly attested that appellants left their respective places of work not earlier than 4:30 P.M. of that day. They, therefore, could not even have reached the scene of the crime at 5:30 P.M., considering the distance and the nature of the road to be travelled on, as earlier explained. It would then be impossible for them to have prepared themselves in time for staging the ambush imputed to them.

Finally, it is also noteworthy that the aforementioned defense witness Generoso Sevilla, who testified in favor of appellant Jesus Lagnas, is the younger brother of the lone prosecution witness, Renato Sevilla.[42] We are of the

reasoned belief that what motivated the former to contradict his brother's testimony is none other than the sincere desire to divulge and stand for the truth and do justice to the innocent appellants. There is no evidence to the contrary.

Implementing the Constitutional mandate, it is embodied in our Rules of Court that "(i)n all criminal prosecutions, the accused shall be entitled to be presumed innocent until the contrary is proved beyond reasonable doubt." [43] This principle of universal acceptance has led us to the oft-quoted ruling that -?

"Accusation is not, according to the fundamental law, synonymous with guilt; the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt. To meet this standard, there is need for the most careful scrutiny of the testimony of the State, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment." [44]

It is likewise basic in our criminal laws that the prosecution cannot draw its strength from the weakness of the defense. The evidence of the People must be strong enough to stand on its own two feet instead of leaning on the crutches of the evidence for the defense. It must be strong enough to convince this Court that the prisoner in the dock must be punished, not because he cannot prove that he is innocent, but because it has proved that he is guilty. [45]

Once again, albeit in effect a supportive and cumulative consideration in view of the preceding disquisition, the "equipoise" rule finds application in this case, that is, if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction. [46] Indeed, the confluence of the proven circumstances against the cause championed by the prosecution, especially the tenuous identification of appellants within an ambience of mercurial testimony, of the lone eyewitness offered by the prosecution, must ineluctably result in a favorable verdict for the defense.

WHEREFORE, premises considered, the appealed judgment is hereby REVERSED and another one is rendered ACQUITTING herein accused-appellants Jesus Lagnas, Agustin Lagnas and Corito Arriesgado of the crimes charged in Criminal Cases Nos. TCS-918, TCS-919 and TCS-920 of the Regional Trial Court of Toledo City, with costs de oficio. Their immediate release from confinement is hereby ordered, absent any lawful cause for their further detention.

SO ORDERED.

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

* This enumeration of the names of the accused is taken from the caption of the joint decision of the trial court in Crim. Cases Nos. TCS-918, 919 and 920 (Original Record, Crim. Case No. TCS-918, 265), rather than the enumeration of the accused charged and named in the amended informations filed in said cases, apparently because these three accused stood trial while the others were never apprehended, arraigned or tried.

[1] Original Record, Crim. Case No. TCS-918, 52-53.

[2] Ibid., Crim. Case No. TCS-919, 21-22.

- [3] Ibid., Crim. Case No. TCS-920, 11-12.
- [4] Ibid., Crim. Case No. TCS-918, 119.
- [5] Ibid., 266.
- [6] TSN, April 10, 1990, 8-9.
- [7] Brief for the Plaintiff-Appellee, 5-8.
- [8] Brief for the Accused-Appellants, 2-4.
- [9] Per Judge Gualberto P. Delgado.
- [10] Original Record, Crim. Case No. TCS-918, 272.
- [11] Brief for the Accused-Appellants, 1.
- [12] People vs. Bacus, 204 SCRA 81 (1991).
- [13] People vs. De la Torre, 198 SCRA 663 (1991); People vs. Yambao, 193 SCRA 571 (1991).
- [14] Brief for the Accused-Appellants, 7-12.
- [15] TSN, November 22, 1989, 4-5.
- [16] Ibid., id., 8.
- [17] TSN, January 8, 1990, 5-6.
- [18] Original Record, Crim. Case No. TCS-918, 24-26.
- [19] TSN, April 10, 1990, 3-4.
- [20] TSN, January 8, 1990, 7-8.
- [21] TSN, November 22, 1989, 5-7.

[22] 198 SCRA 670 (1991).

- [23] People vs. Alvarez, 169 SCRA 730 (1989).
- [24] TSN, April 24, 1991, 2; TSN, June 24, 1991, 4-6.
- [25] Original Record, Crim. Case No. TCS-918, 271.
- [26] TSN, November 22, 1989, 2; January 8, 1990, 2.
- [27] Ibid., id., 187.
- [28] People vs. Ruedas, 194 SCRA 553 (1991).
- [29] People vs. de Guzman, 194 SCRA 601 (1991).
- [30] Section 5(e), Rule 131, Rules of Court.
- [31] People vs. Salguero, 198 SCRA 357 (1991).
- [32] People vs. Cinco, 194 SCRA 535 (1991).

- [33] TSN, January 28, 1991, 3-5.
- [34] TSN, January 29, 1991, 4.
- [35] TSN, April 19, 1991, 3.
- [36] TSN, January 28, 1991, 5.
- [37] TSN, April 19, 1991, 6.
- [38] TSN, April 24, 1991, 4.
- [39] TSN, June 24, 1991, 6-7.
- [40] TSN, August 5, 1991, 4-5.
- [41] TSN, January 8, 1990, 4.
- [42] TSN, April 19, 1991, 7.
- [43] Section 1(a), Rule 115, Rules of Court.
- [44] People vs. Dramayo, 42 SCRA 60 (1971).
- [45] People vs. De Guzman, 194 SCRA 601 (1991).
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