ALBERT G. AMBAGAN, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. Nos. 204481-82. October 14, 2015

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Nature of the Case

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the June 21, 2012 Decision,[1] as effectively reiterated in the October 31, 2012 Resolution[2] of the Sandiganbayan First Division in Crim. Case Nos. 28259-60, finding and declaring herein petitioner Albert G. Ambagan, Jr. (Ambagan), among others, guilty of the crime of double homicide by inducement for the deaths of SPO2 Reynaldo Santos (Santos) and Domingo Bawalan.

The Facts

On April 6, 2005, two (2) Informations were filed charging petitioner Ambagan, together with Domingo H. Villasis, Michael T. Malabanan, Celestino "Ely" B. Garcia, Alberto C. Angcanan, Juanito S. Loyola, Melanio S. Bayot, Rosendo V. Causaren, Flor R. Amparo, Reo A. Rojales, and Roger V. Causaren, for two (2) counts of homicide, to wit:

> Criminal Case No. 28259
>
> That on the 5[th] day of July 2004, or sometime prior or subsequent thereto, in the Municipality of Amadeo, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, accused ALBERTO AMBAGAN, JR. y GARCES, a public officer being the Municipal Mayor of Amadeo, Cavite, and committing the offense herein charged in relation to his Office as such, specifically in overseeing and maintaining peace and order in his municipality, with intent to kill, did then and there willfully, unlawfully, and feloniously induce, command and order accused DOMINGO VILLASIS y HARION, MICHAEL MALABANAN y TIBAYAN, ELY GARCIA, and ROGER CAUSAREN, all public officers being the Barangay Captain of Barangay 5, Amadeo, Cavite, Sangguniang Member of Amadeo, Cavite, and members of Civil Security Unit of Amadeo, Cavite, respectively, to attack, assault and shoot SPO2 REYNALDO SANTOS, and by reason thereof, accused DOMINGO VILLASIS y HARION, MICHAEL MALABANAN y TIBAYAN, ELY GARCIA, ROGER CAUSAREN, oblige, follow and execute said command and order by then and there firing and shooting at SPO2 REYNALDO SANTOS with their firearms hitting the latter/victim on the head and different parts of his body and inflicting upon him mortal wounds, which directly caused his instantaneous death and which act of the aforenamed accused was perpetrated in the presence of accused ALBERTO ANGCANAN y CAUSAREN, JUANITO LOYOLA y SAMIANO, MELANIO BAYOT y SUMAGUI ROSENDO CAUSAREN, FLOR AMPARO, and REO ROJALES, who are likewise public officers being members of Civil Security Unit of Amadeo, Cavite, who gave moral support to accused ALBERT G. AMBAGAN, JR., DOMINGO H. VILLASIS, MICHAEL T. MALABANAN, ELY GARCIA, and ROGER CAUSAREN to commit the crime of homicide to the damage and prejudice of the heirs of the victim in such amount as may be proved in court.

CONTRARY TO LAW.[3]

Criminal Case No. 28260

That on the 5[th] day of July 2004, or sometime prior or subsequent thereto, in the Municipality of Amadeo, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, accused ALBERTO AMBAGAN, JR. y GARCES, a public officer being the Municipal Mayor of Amadeo, Cavite, and committing the offense herein charged in relation to his Office as such, specifically in overseeing and maintaining peace and order in his municipality, with intent to kill, did then and there willfully, unlawfully, and feloniously induce, command and order accused DOMINGO VILLASIS y HARION, MICHAEL MALABANAN y TIBAYAN, ELY GARCIA, and ROGER CAUSAREN, all public officers being the Barangay Captain of Barangay 5, Amadeo, Cavite, Sangguniang Member of Amadeo, Cavite, and members of Civil Security Unit of Amadeo, Cavite, respectively, to attack, assault and shoot DOMINGO BAWALAN, and by reason thereof, accused DOMINGO VILLASIS y HARION, MICHAEL MALABANAN y TIBAYAN, ELY GARCIA, ROGER CAUSAREN, oblige, follow and execute said command and order by then and there firing and shooting at DOMINGO BAWALAN with their firearms hitting the latter/victim on the head and different parts of his body and inflicting upon him mortal wounds, which directly caused his instantaneous death and which act of the aforenamed accused was perpetrated in the presence of accused ALBERTO ANGCANAN y CAUSAREN, JUANITO LOYOLA y SAMIANO, MELANIO BAYOT y SUMAGUI, ROSENDO CAUSAREN, FLOR AMPARO, and REO ROJALES, who are likewise public officers being members of Civil Security Unit of Amadeo, Cavite, who gave moral support to accused ALBERT G. AMBAGAN, JR., DOMINGO H. VILLASIS, MICHAEL T. MALABANAN, ELY GARCIA, and ROGER CAUSAREN to commit the crime of homicide to the damage and prejudice of the heirs of the victim in such amount as may be proved in court.

CONTRARY TO LAW.[4]

At the time the Informations were filed, petitioner Ambagan was already on his second consecutive term as municipal mayor of Amadeo, Cavite, having been elected to the same post during the 2001 National and Local Elections.[5] As mayor with salary allocation of grade 27,[6] the cases against him and his fellow accused were filed with the Sandiganbayan in accordance with Republic Act No. 8249.[7] Ambagan eventually ran and won for a third term in 2007, and was subsequently elected as member of the provincial board of Cavite.[8]

Arraigned on August 11, 2005, petitioner and his co-accused, except for Domingo H. Villasis who earlier passed away, pleaded not guilty to the offenses charged.[9] Thereafter, joint trial ensued for the related cases. For its part, the prosecution offered in evidence the testimonies of the following witnesses: Benigno M. Cabillo, Group Director (GD) of the Cavite Police Provincial Mobile Group;[10] Edgardo R. Mamuyac, a Patrol and Traffic Officer of the General Trias Police Station;[11] Regina B. Salazar, barangay captain of Banay-banay, Amadeo, Cavite;[12] Lervin Causaren, son of Leandro Causaren who in turn is one of the casualties in the July 5, 2004 shooting incident;[13] Victor J. Patam (Patam), a policeman who was present at the scene of the crime at the time of the shooting incident;[14] Ronnel Bawalan, brother of Domingo Bawalan who claimed to have personally witnessed the incident;[15] Donato T. Malimban, a policeman who reported to the crime scene to investigate;[16] Guillermo L. Poblete, a laboratory technician assigned at the PNP Crime Laboratory, Cavite;[17] Lorenzo V. Balbuena, Assistant Chief Investigator IV of the Amadeo Municipal Police Station;[18] Roger Delgado, team leader of the SOCO and a forensic examiner;[19] Roy A. Camarillo, a doctor of medicine working with the PNP;[20] Lorna R. Tria, chief of the Chemistry Section of the PNP Crime Laboratory;[21] Jupri C. Delantar, Forensic Chemical Officer of Batangas Provincial Crime Laboratory Office;[22] Ernesto L. Olaes, the police officer who collected the statements taken in connection with the shooting incident;[23] Roberto Soriano, chief of PUB Cavite Provincial Police Office;[24] Erlinda Bawalan, widow of Domingo Bawalan;[25] and Editha Santos, widow of Reynaldo Santos.[26]

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Of special relevance to the instant petition are the accounts of Patam and Ronnel Bawalan, the only two among the prosecution witnesses who claimed that they were present or within the proximate vicinity of the crime scene. Their testimonies, as summarized by the Sandiganbayan, are as follows:

> Victor J. Patam, a policeman. He testified that on July 4, 2004 at 1:00 in the afternoon, he, with Domingo Bawalan, went to Barangay Litlit, Silang, Cavite, to attend the birthday party of his son's kumpadre. From Litlit, they then proceeded at 5:00 in the afternoon to the house of Edgardo Mamuyac for the birthday party of Mamuyac's son, where they had singing spree and a little drink. They stayed there until 11:00 in the evening.
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> Upon reaching Barangay Biclatan, General Trias, Cavite, Patam received a call from Reynaldo Santos who was at Mamuyac's place. Santos requested Patam to go back to Mamuyac's house which was already closed, as Santos had no companion there. Santos arrived late because he came from a follow-up operation in Maragondon, Cavite.
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> When Patam and Domingo returned to the place of Mamuyac, they saw Santos in front of his Space Gear van. After a little chat, Patam invited Santos and Domingo to go home. Domingo rode with Santos, while Patam took his own car. Santos and Domingo left ahead of him.
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> Upon reaching the boundary of Tamacan and Banay-banay, he saw the van of Santos parked at the side of the street behind another van whose owner he did not know. He likewise saw Ronnel Bawalan, the brother of Domingo, standing at their gate, looking at the direction of the vehicles parked.
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> Patam parked his car behind Santos' van and alighted therefrom. Immediately, Santos handed him a baby armalite, which according to Santos, he got from Mayor Ambagan's men. Patam placed the baby armalite at the driver's seat of his car. When he returned to where Santos was, the latter ordered the four apprehended men to line up at the other side of the street. Two of them put down their short firearms upon the order of Santos. After telling the group to step away from the firearms. Santos came near the firearms, but without touching them. Thereafter, Santos phoned Superintendent Cabillo and informed him of what happened.
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> While Santos was talking to Cabillo, somebody called Patam "Kuya Taring." Patam recognized him to be Alberto Angcanan. Patam told them to just stay put and they would help them after Cabillo had arrived. After a few minutes. Mayor Ambagan arrived.
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> Patam went near Mayor Ambagan and greeted him. The Mayor greeted him back, and asked who was at the other side. Patam told him that it was Reynaldo Santos, a policeman. Mayor Ambagan then told Santos, "Rey, baka pwede namang pag-usapan nalin yan kung anuman yang problema." Santos replied, "Mayor, wala na hong desisyon akong magagawa dito. Intayin niyo si GD. Siya na lang ang kakausapin ninyo." Repeatedly, the Mayor made the same request to Santos, but Santos gave him the same answer. Patam felt that the situation was heating up, so he asked Mayor Ambagan to go to the house of Patam's cousin, Miling Javier.
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> While Patam was pushing Mayor Ambagan, who was angry and cursing Santos, to Javier's house, Patam heard the first gunshot emanating from where he and the Mayor were, but did not see anything when he looked back. The Mayor wanted to go back to see what happened to his men. Patam also wanted to go back to his companions, so he left the Mayor with Alberto Angcanan and Rosendo Causaren. However, Patam's gun fell, thus, he instead proceeded to the house of his brother near the place of the incident. While he was already near his brother's house. Patam saw three men with long firearms - two at the back of his car and the other one in front of the MB 100 van. all firing towards the south direction where he left Rey. Upon reaching the house of his brother, he asked his niece Susan Patam to call the police. Patam was not able to get out of his brother's house anymore, because he was prevented by his mother and brother, as he might be suspected of being responsible for the killing. Patam called the chief of Police of General Trias. Cavite, Chief Inspector Portento, to fetch him because his life was in danger. On July 5, 2004, he executed a Sinumpaang Salaysay and Karagdagang Salaysay.

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> Ronnel Bawalan, brother of Domingo Bawalan and cousin-in-law of Reynaldo Santos, he testified that on July 5, 2004 at around 12:00 midnight, he parked his passenger jeepney at his garage, and prepared it for the next day's use. When he was about to sleep, at around 1:00 o'clock in the morning. Santos riding in his vehicle with Domingo, entered the garage. They asked if they could hire his jeepney the following day. When he agreed, Ronnel guided them from the garage to the road. While outside answering a call of nature. Ronnel looked towards the south direction and he saw Santos and Domingo about less than 100 meters from him park the van and alight from their vehicle. He also saw the car of Patam parked behind Santos' vehicle. He crossed the road and walked towards them. When he was already near them, he heard Santos saying to the four men from the van parked in front of Santos' vehicle. "Dyan lang kayo, wag kayong aalis." Upon hearing this, he went to Domingo and inquired why Santos was asking these men to get out of the van. Domingo told him that these men were carrying firearms.
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> While Ronnel and Domingo were standing at the right front side of the parked van. Ronnel heard a sound of a radio coming from the four men accosted by Santos. At that time, Santos was in the middle of the road, making a call from his cellphone. Thereafter, Mayor Ambagan with his bodyguards carrying long firearms arrived. Mayor Ambagan told Santos that they should just talk it out whatever the problem was.
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> When Domingo saw the Mayor, he directed Ronnel to leave the place as it was dangerous, and shoved him away. Ronnel walked a few meters towards the southern direction and hid, lying flat on his belly behind the bushes at the entrance of an old poultry house. Being approximately 10 to 15 meters from where Santos was standing, he heard Santos say to Mayor Ambagan, "Hintayin nalang natin si GD at sa kanya ka nalang makiusap." Santos did not agree. From a calm voice when he made his first request. Mayor Ambagan's voice became loud and angry when Santos many times turned him down. At that time, Patam was just an arm's length between Santos and Mayor Ambagan.
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> Then, Ronnel heard the Mayor say, "Sige yan pala ang gusto mo. Mga kasama, banatan na ninyo yan." After the mayor had uttered these words, Ronnel heard a gunfire from Rene Amparo in the direction of Santos. The men of Mayor Ambagan (referring to Rene Amparo, Domingo Villasis, Michael Malabanan, Ely Garcia, and Roger Causaren) were spread along the road, firing their guns at Santos and Domingo. After several gunshots that lasted for about five minutes, he saw Mayor Ambagan's men board their vehicles and left in the direction of Amadeo, after taking the guns from Santos and Domingo.
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> Ronnel quickly went home and told his parents that his brother just got killed. They went to the place of incident after the policemen had arrived. On July 27, 2004, he executed a Salaysay. It took him long to give a statement because he feared for his life and his family's.[27]

The defense, on the other hand, offered the testimonies of accused Roger V. Causaren,[28] Celestino "Ely" B. Garcia,[29] Alberto C. Angcanan,[30] Juanito S. Loyola,[31] Melanio S. Bayot,[32] and that of petitioner Ambagan to refute the charges leveled against them. The Sandiganbayan recapitulated petitioner's testimony in the following wise:

> Albert G. Ambagan. Jr., Mayor of the Municipality of Amadeo, Cavite, at the time material to these cases and one of the accused. He testified that during the last week of June to the first week of July of 2004, they encountered robbery (akyat-bahay) and theft occurrences in their place. Robbers went inside houses, aimed guns at the households and robbed them. One of the victims was the Angcanan family.
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> In order to address the problems, he met with the policemen, the barangay captains, the committee on peace and order, and the chiefs of barangay tanods, where they decided to form a ronda team, to be composed of civilian groups, barangay officials, and policemen. The team would conduct regular patrol in the Municipality to prevent crimes, and maintain peace and order.
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> In the afternoon of July 4, 2004, on his way home from a wake of a relative, he received a text message from Barangay Captain Gina Salazar of Banay-banay, Amadeo saying, "Humanda kayo. May mangyari sa inyo

> mamyang gabi." So, he called Salazar and told her that he would send policemen, volunteers, and the ronda team to her barangay. He just needed to bring his fiancee to Manila, but would be back later.
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> From Manila, Mayor Ambagan went directly to Salazar's place, then to the police station where he was told that the policemen and the ronda team were to bring a motorcycle rider accosted earlier. At the station, he was informed that the owner of the motorcycle was freed, because there was no basis that the apprehended person was a suspected robber. So, he went back to the house of Salazar. At about 11:30 to 11:40 in the evening, while he was having a conversation with the officials of Banay-banay, he received a radio call from Alberto Angcanan, through Rene Amparo, saying that Santos was harassing the group of Angcanan. He was calling the police when Rene called again telling him, "Nagpaputok na Mayor kailangan po kayo dito at maayos po lahat ito kung kayo'y nandito." Being the mayor and considering that those who were being harassed were his constituents, he thought he needed to go to them even if he was fearful.
>
> On board his Isuzu Trooper, he went to the boundary of Banay-banay and Tamacan, with the Chair of the Peace and Order Committee Michael Malabanan, his friend Leandro Causaren, and his driver Ariel Mendoza. When they arrived, he saw his MB 100 van at the left side of the road, and two cars parked at the back of the van. On the right side of the road were Angcanan, Juanito Loyola, Melanio Bayot, and Edrelin John Jamon, with Santos pointing a gun at the group. Domingo Bawalan was standing beside the car holding a long firearm. Santos was wearing a sando and short pants, while Domingo was wearing a t-shirt and maong pants. Both looked drunk.
>
> He told Mendoza to park far from the area, and his companions to stay in the vehicle as he would go down alone to pacify the situation. Victorino Patam approached him and apologized for the altercation that happened between Angcanan's and Santos' groups. He went near Santos and asked the latter to just settle the issue because anyway all of them were one in trying to solve the robbery in their place, and pleaded him to put the gun down. But Santos with his gun still pointing at the group of Angcanan and waiving his cellphone, responded that he instead should talk to "GD." He continued pleading for Santos to put down his gun and to just talk out the issue as the Amadeo police were already coming. But Santos moved near him and pointed the gun at him. At that moment, Rene grappled the gun from Santos. He heard a gunshot and saw Rene fall to the ground. Angcanan, Patam and Loyola embraced and ushered him to the house of Miling Javier, while he was shouting to bring Rene to the hospital. Then, he heard a series of gunshots. He hurriedly called the police who said that they were already coming.
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> After the gunshots had stopped, he heard the vehicles from outside leaving. Worried that they had nothing to ride on, he called his house after they left Javier's house through the backdoor. They were picked up by a vehicle by the mango tree in Banay-banay. When they arrived at his house, he made a phone call to Provincial Director Col. Rosales instead of Amadeo police because its Chief, Major Aspiras, was not around. At Col. Rosales' office, Angcanan, Bayot and Loyola were separately investigated and underwent a paraffin test. He did not know about Mendoza who just left the Isuzu Trooper in front of his (Ambagan) house.[33]

Ester D. Amparo[34] and Ariel A. Mendoza,[35] the late Rene Amparo's mother and petitioner Ambagan's driver, respectively, likewise took the witness stand to corroborate the testimonies of those charged.

In rebuttal, the prosecution offered the testimony of Reynaldo D. De Guzman as an expert witness, being the Chief of Firearms and Identification Division of the Philippine National Police, Camp Crame since 1994.[36]

In the Decision now on appeal, the Sandiganbayan made the following findings:

> In the evening of July 4, 2004, before the shooting incident happened, accused Roger V. Causaren (Roger), Michael T. Malabanan, Celestino (Ely) Garcia, Flor Amparo (Flor), Domingo Villasis, and the deceased Leandro Causaren (Leandro), were at the place of Barangay Captain Gina B. Salazar in Banay-banay, Amadeo, Cavite, to address a robbery threat to the barangay. When two suspicious speeding motorcycles passed by they all dashed to catch them. Leandro drove the MB 100 van. Villasis the barangay patrol owner-type jeep, and

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Flor, his owner-type jeep.

Hours later, accused Mayor Albert G. Ambagan went to Salazar's place. Not long enough. Leandro followed him after purportedly having turned over to the police station one of the two motorcycles they had chased earlier.

Meanwhile, the victim Reynaldo Santos coming from a police station in Maragondon, Cavite, went to Edgardo R. Mamuyac's house. Since Mamuyac was already asleep, Santos called Victorino J. Patam who was with the victim Domingo Bawalan, for company. After a little chat outside Mamuyac's house, at past 11:00 in the evening, the three decided to go home. Domingo rode with Santos in the latter's Space Gear van, while Patam drove his Toyota Corolla car. Santos went ahead of Patam, although both took the southern direction going to Barangay Tamacan.

When Santos and Domingo reached the boundary of Tamacan and Banay-banay (after passing by the latter's parents' house and having a short talk with Ronnel Bawalan), they came across an MB 100 van owned by Mayor Ambagan, parked at the right side of the road facing south (Poblacion of Amadeo). Santos positioned and parked his vehicle at the back of the MB 100 van, and as soon as he has alighted, ordered the four men armed with long and short firearms to get out from the van and line up at the other side (left) of the street. These men turned out to be Alberto C. Angcanan, Juanito S. Loyola, Melanio S. Bayot, and the deceased Edrelin John Jamon.

Santos Called Superintendent Cabillo, referred to as "GD," to inform him of the situation. Cabillo said that he was coming. On the other hand, Angcanan called Mayor Ambagan, through Rene Amparo, over the two-way radio saying that Santos apprehended him and his companions. Thereupon, Mayor Ambagan, Leandro, and Rene boarded the Mayor's Isuzu Trooper and headed to Tamacan where the group of Angcanan was.

When Mayor Ambagan arrived at the place of the incident, he approached Santos and requested the latter that they just settle whatever the problem was. But Santos replied that the Mayor should just wait for GD. While Santos and Mayor Ambagan were talking, Rene Amparo went near Santos. Mayor Ambagan repeatedly made the same request, but Santos stood pat and rejected the Mayor's requests. Mayor Ambagan then got angry and said: "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo iyan." Thereupon, the first gunshot was fired, followed by successive gunshots from the men of Mayor Ambagan, namely, Michael Malabanan, Ely Garcia, and Roger Causaren. The shooting incident which lasted for about five minutes left five men dead - Leandro, Rene, Jamon, Santos, and Domingo. The first, three were from the group of Mayor Ambagan.[37]

Ruling of the Sandiganbayan

In its June 21, 2012 Decision in Crim. Case Nos. 28259-60, the Sandiganbayan convicted petitioner, among others, of the crime of double homicide, thusly:

WHEREFORE, in light of all the foregoing, judgment is hereby rendered, as follows:

1. In Criminal Case No. 28259, accused ALBERT G. AMBAGAN, JR., and accused MICHAEL T. MALABANAN, CELESTINO "ELY" B. GARCIA, and ROGER V. CAUSAREN are found GUILTY beyond reasonable doubt of Homicide for the death of Reynaldo Santos, the first as principal by inducement, and the rest as principal by direct participation, and are sentenced to suffer the indeterminate penalty of Six (6) Years and One (1) Day of Prision Mayor as minimum, to Twelve (12) years and One (1) Day of Reclusion Temporal as maximum.

Further, the said accused are hereby ordered to pay jointly and severally, the heirs of Reynaldo S. Santos, the following damages:
(a) The sum of P50,000.00 as civil indemnity;

(b) The sum of P787,875.00 as reimbursement for the burial and funeral expenses:

(c) The sum of P1,647,979.32 as compensatory damages; and

(d) The sum of P50,000.00 as moral damages;

2. In Criminal Case No. 28260, accused ALBERT G. AMBAGAN, JR., MICHAEL T. MALABANAN, CELESTINO "ELY" B. GARCIA, and ROGER V. CAUSAREN are found GUILTY beyond reasonable doubt of Homicide for the death of Domingo Bawalan, the first as principal by inducement, and the rest as principal by direct participation, and are hereby sentenced to suffer the indeterminate penalty of Six (6) Years and One (1) Day of Prision Mayor as minimum, to twelve (12) years and One (1) day of Reclusion Temporal as maximum.

Further, they are ordered to pay jointly and severally, the heirs of Domingo Bawalan the following:

a. The sum of P50,000.00 as civil indemnity;

b. The sum of P40,000.00 as actual damages;

c. The sum of P50,000.00 as moral damages;

Finally, in Criminal Cases No. 28259 and No. 28260, an interest of six percent (6%) per annum shall be applied to all the award of damages from the finality of judgment until fully paid.

3. In Criminal Cases No. 28259 and No. 28260, accused ALBERTO C. ANGCANAN, JUANITO S. LOYOLA, MELANIO S. BAYOT, FLOR AMPARO and ROSENDO V. CAUSAREN are hereby ACQUITTED, for failure of the prosecution to prove their guilt beyond reasonable doubt.

Considering that the act or omission from which the civil liability might arise did not exist, no civil liability is assessed against said accused.

The hold departure order issued against them by reason of these cases are hereby LIFTED and SET ASIDE, and their bonds RELEASED.

SO ORDERED.[38]

In holding petitioner criminally liable as principal by inducement for the deaths of Santos and Domingo Bawalan, the Sandiganbayan gave credence to Ronnel Bawalan's testimony that it was Amabagan's utterance ("Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan"), which impelled his men to aim and shoot at the victims.[39]

Aggrieved, petitioner moved for reconsideration of the aforequoted ruling.[40] The Sandiganbayan, however, would deny petitioner's motion through its assailed October 31, 2012 Resolution.

Hence the instant petition.

The Issue

Petitioner Ambagan seeks reversal of the Sandiganbayan's judgment on the following assignment of errors:

- THE COURT A QUO GRAVEEY ERRED IN NOT FINDING THAT THE TESTIMONIES OF PROSECUTION'S 2 MAIN WITNESSES (RONNEL BAWALAN AND VICTORINO PATAM) ARE IRRECONCILABLY CONTRADICTORY TO EACH OTHER.

- THE COURT A QUO GRAVELY ERRED IN NOT FAILING TO RECONCILE ITS CONCLUSIONS WITH THE FACTS THAT 3 OF MAYOR'S MEN DIED IN THE FIREFIGHT AND THE DECEASED AMPARO TESTED NEGATIVE OF GUNPOWDER.

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- THE COURT A QUO GRAVELY ERRED IN NOT EVEN CONSIDERING THAT DECEASED SANTOS AND BAWALAN WERE DRUNK (WHICH CONDITION MADE THEM MORE DARING, ARROGANT, AND ASSERTIVE) AND THAT IT IS ALSO A REAL POSSIBILITY THAT IT WAS SPO1 DOMINGO BAWALAN WHO FIRED THE FIRST SHOT.

- THE COURT A QUO GRAVELY ERRED IN DISREGARDING COMPELLING INDICATIONS AND IMPLICATIONS (FROM RONNEL BAWALAN'S OWN TESTIMONY) THAT HE WAS NOT IN THE VERY SCENE OF THE CRIME.

- THE COURT A QUO GRAVELY ERRED IN NOT APPRECIATING THAT THE TIME-SEQUENCE AND DISTANCE FACTORS BELIE WITNESS RONNEL BAWALAN'S CLAIM THAT ACCUSED MAYOR AMBAGAN GAVE ANY ORDER TO SHOOT.

- THE COURT A QUO GRAVELY ERRED IN NOT APRPECIATING THE FACT - THAT MAYOR AMBAGAN IS STILL ALIVE - INDUBITABLY PROVES THAT HE DID NOT MAKE ANY ORDER TO SHOOT.

- THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT WITNESS PATAM'S TESTIMONY (OR LACK OF IT) NEGATES THE CLAIM THAT MAYOR AMBAGAN MADE ANY ORDER TO SHOOT.

- WHETHER OR NOT ACCUSED ALBERT G. AMBAGAN, JR. IS GUILTY OF THE CRIME CHARGED FOR DOUBLE HOMICIDE.

- WHETHER OR NOT ACCUSED ALBERT G. AMBAGAN, JR. CONSPIRED WITH OTHER ACCUSED FOR THE COMMISSION OF THE CRIME CHARGED.

- WHETHER OR NOT ACCUSED ALBERT G. AMBAGAN, JR. CAN BE HELD AS PRINCIPAL BY INDUCEMENT FOR THE CRIME CHARGED.

- WHETHER OR NOT RONNEL BAWALAN WAS ACTUALLY PRESENT AT THE PLACE OF INCIDENT AT THE TIME OF THE SHOOTING.[41]

As can be gleaned, the threshold issue in the case at bar is whether or not petitioner can be held guilty for double homicide as principal by inducement. On the main, petitioner ventures to discredit Ronnel Bawalan, one of the only two prosecution witnesses who allegedly personally witnessed the prelude to the shootout, if not the shootout itself.

In its Comment,[42] the Office of the State Prosecutor (OSP), representing the People of the Philippines, countered that the Sandiganbayan committed no reversible error in convicting petitioner for double homicide. The OSP pointed out that the prosecution sufficiently established petitioner's guilt beyond reasonable doubt through the testimony of Ronnel Bawalan, who only lived 100 meters away from the crime scene, and was even seen by Patam to be looking at the direction of the parked vehicles moments before he (Patam) joined Santos and Domingo Bawalan; and that Ronnel Bawalan was unwavering and steadfast in his testimony that he witnessed the attack, assault and shooting of Santos and Domingo Bawalan; and that Ronnel Bawalan categorically heard petitioner direct his men "Sige, yan pala ang gusto mo. Mga kasama, banatan na ninyo yan." Petitioner's command, so the OSP claims, was what triggered the exchange of gunshots, making him liable as principal by inducement for the resultant deaths of Santos and Domingo Bawalan.

On August 28, 2013, this Court resolved to deny the petition for its failure to show any reversible error in the challenged judgment of the Sandiganbayan.[43] This prompted petitioner to move for reconsideration, and the Court, through its December 9, 2013 Resolution,[44] to order the OSP to comment thereon.

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In its Comment, the OSP argued that petitioner's motion for reconsideration was a mere rehash of arguments already submitted to and denied by the Court for lack of merit; and that the issues raised in the petition pertain to factual findings of the Sandiganbayan and that there is no cogent reason for the Court to review the same.[45]

Subsequently, on September 29, 2014, the Court issued a Resolution[46] setting aside the August 28, 2013 Resolution and reinstating the petition.

We now resolve.

The Court's Ruling

After a careful review of the case, the Court finds the petition to be impressed with merit.

Findings of fad reviewable under

exceptional circumstances

Resolving the issues posed by the petitioner, as aptly pointed out by the OSP, indeed requires a review of the Sandiganbayan's findings of fact, which is generally not a function of this Court. The oft-quoted rule is that factual findings of the court a quo and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal.[47] This rule, however, is not ironclad as it admits of exceptions[48] such as when the lower court has overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance,[49] which the Sandiganbayan, as will be discussed, committed in the case at bar.

There is reasonable doubt to hold

petitioner Ambagan criminally liable

as principal by inducement

It may be recalled, in the case at bar, that petitioner was charged for two (2) counts of homicide for the deaths of Santos and Domingo Bawalan. Article 249 of the Revised Penal Code defines the offense charged as follows:

> ART. 249. Homicide. - Any person who, not falling within the provisions of Article 246 shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be guilty of homicide and shall be punished by reclusion temporal.

In relation thereto, the Court, in Villanueva v. Caparas, held that the following elements must be proven to sustain a conviction for homicide: (1) a person was killed; (2) the accused killed him without any justifying circumstance; (3) the accused had the intention to kill, which is presumed; and (4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.[50]

The Sandiganbayan is correct in its observation that the Court need not belabor on the elements of the offense since it is not disputed that Santos and Domingo Bawalan were killed during the July 5, 2004 shooting incident, and that the killing was not attended by any of the circumstances that would qualify the offense to murder, parricide, or infanticide.[51] Verily, what is left to be determined is the extent of petitioner's participation in the adverted shooting incident, if any. Here, the Sandiganbayan adjudged petitioner guilty for two counts of homicide as principal by inducement for allegedly uttering "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan" which impelled petitioner's bodyguards to open fire at the victims.

The conviction of a person as a principal by inducement requires (1) that the inducement be made with the intention of procuring the commission of the crime; and (2) that such inducement be the determining cause of the

commission by the material executor.[52] As applied, the Sandiganbayan would have been correct in holding petitioner criminally liable if he indeed made the utterance immediately before the shooting incident. However, this Court is not inclined to believe that petitioner indeed made the declaration that started the fray. The court a quo failed to take note of substantial inconsistencies in the testimonies of star prosecution witnesses Patam and Ronnel Bawalan. These contradictions refer not only to minor details but even to the facts constituting important aspects of the case, seriously eroding the weight of the evidence of the prosecution, and casting reasonable doubt on the culpability of petitioner Ambagan.

a. Only Ronnel Bawalan

allegedly heard petitioner

made the utterance

It is a cardinal principle in criminal law that the prosecution has the burden of proving the guilt of the accused beyond reasonable doubt.[53] It is the primordial duty of the prosecution to present its side with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion, with moral certainty.[54] If the prosecution fails to discharge its heavy burden, then it is not only the right of the accused to be freed, it becomes the Court's constitutional duty to acquit him.[55]

Noteworthy in the present controversy is that out of the eighteen (18) prosecution witnesses presented to satisfy the quantum of evidence required, only Ronnel Bawalan testified that petitioner uttered "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan" just before the shooting. As per the testimony of Ronnel Bawalan:

> x x x x
>
> Q
>
> And you mentioned a while ago that Mayor Ambagan talked to Reynaldo Santos. And what was the reply of Reynaldo Santos, if any?
>
> x x x x
>
> A
>
> Ang sabi ni Kuya Rey hintayin nalang natin si GD at sa kanya ka nalang makiusap.
>
> Q
>
> After making that request and after Reynaldo Santos denied such request, what happened next, if any?
>
> A
>
> Mayor Ambagan repeatedly made his requests but these requests were also repeatedly denied by Kuya Rey.
>
> Q
>
> And how did Mayor Ambagan's voice sound during the time when he was making these requests?
>
> A
>
> At first, the request was made calmly. But when his requests were repeatedly denied by Kuya Rey, his tone of voice was already loud and he spoke in an angry tone, Ma'am.
>
> x x x x
>
> Q

So after Reynaldo Santos repeatedly denied the requests of Mayor Ambagan. what happened next, if any?

x x x x

A

I heard the loud voice of Mayor Ambagan saying: "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan?"[56]

Curiously, this is in stark contrast with the testimony of the other star prosecution witness, Patam, who, despite being only two to three arms-length away from petitioner during the latter's altercation with Santos, never testified that Ambagan uttered the imperative phrase:

Q

Then after that, what happened next, if any, after those repeated request[s] from the mayor and the repeated denial[s] of such request[s] from Reynaldo Santos?

A

When I felt that the situation was heating up. I asked the mayor to go to the house of my cousin Miling Javier.

Q

Why did you feel that way that the situation was heating up?

x x x x

A

"Siyempre, mainit na si mayor, mainit na rin ang kasama ko gawa ng medyo ayaw niya ngang ibigay yung nire-request ni mayor kaya dinala ko si mayor papalayo sa karsada papasok sa bahay ni Miling Javier."

x x x x

Q

And how did the mayor react when you pushed him towards the house of Miling?

A

"Dumiretso lang siya nung una tapos nung pumutok na, nung makarinig ako ng putok sa labas, ayun na."

ATTY. VILLANUEVA:

I think because of the interruption, there will be inaccuracy in translation. It is very clear in the testimony of the witness. He was bringing the mayor to the house of Miling Javier then he heard the gunshots.

J. DE CASTRO:

Let him complete the answer.

A

"Medyo galit siya nun. Tapos habang tinutulak ko doon sa bakod ng bahay, noon po ako nakarinig ng putok nung malayo-layo na kami sa fence."[57] (emphasis added)

And during Patam's cross-examination:

x x x x

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Q

Now, why were you pushing Mayor Ambagan inside the house of Miling Javier?

A

Because the Mayor was angry and I did not want any incident to happen.

Q

But his gun was not drawn at that time?

A

No, sir.

Q

His gun was tucked in his waistline?

A

Yes, sir. It was tucked, sir.

Q

So, when you pushed him inside the house of Miling Javier, you did not see the Mayor drawing his gun?

A

No, your Honor.

Q

Did you hear him uttering some words when you were pushing him inside the house?

A

I heard some words, sir, but I did not understand.

Q

You heard some words but you cannot understand what he was saying?

A

I understood the first words that he said, your Honor, he shouted some invectives after he said, ANG HIRAP MONG KAUSAP.

Q

Then later on he kept on talking but you could not anymore understand what he was saying?

A

Yes, your Honor.

Q

Do you know when he spoke those words and NAGMURA, to whom were these words directed?

A

It's directed to Rey Santos, your Honor.

Q

Where was Rey Santos in relation to the place where you were at the time that you were pushing the Mayor inside the house?

A

He was in the other side of the street, at the left side of the gate fronting the mayor.

Q

How far was he in relation to your place to the place of the Mayor at that time?

A

Around two (2) to three (3) arms length, your Honor.

Q

So, by the time that you pushed the Mayor inside the house of Miling Javier and he was uttering those words, Patrolman Rey Santos was still on that place where he was on the left side?

A

Yes, your Honor.

Q

And that was [the] time you heard gunshot two (2) at a time?

A

When we were already inside the gate, that was the time we heard gunshots.[58] (emphasis added)

Interestingly, between the two star prosecution witnesses, it is Patam, being in closer proximity to Ambagan, who was in the better position to know whether or not Ambagan ordered his men to open fire at the victims. Yet, Patam claimed that he only heard Ambagan shout invectives at Santos and that when the shooting started, he and petitioner were already in the compound of his cousin, Miling Javier.

Despite having been presented several opportunities to do so, Patam did not declare under oath that he categorically heard petitioner say "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan." As petitioner pointed out, the first opportunity was when Patam made his Sinumpaang Salaysay[59] on July 5, 2004, when the incident was still fresh in his memory. The second was when he executed a supplemental sworn statement[60] on the same date.[61] And last, when he underwent the rigors of direct and cross-examination during trial.[62] Sans this categorical declaration from Patam, it is only on Ronnel Bawalan's uncorroborated testimony - that petitioner allegedly uttered "Sige, yan pala ang gusto mo. Mga kasama banatan na ninyo yan" — on which petitioner's conviction is hinged.

b. The testimony of Ronnel

Bawalan is not entirely credible

The finding of guilt based on the testimony of a lone witness is not uncommon in our jurisprudence.[63] Time and again, We have held that the testimony of a sole eyewitness is sufficient to support a conviction so long as it is clear, straightforward and worthy of credence by the trial court.[64] Such rulings were, therefore, premised on the

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fact that the credibility of the sole witness was duly established and observed in court.

Prefatorily, this Court has consistently ruled that in the matter of credibility of witnesses, the findings of the trial court, in ordinary criminal proceedings, are given weight and respect by appellate courts and, generally, will not be disturbed on appeal. Deviation from this rule will only be allowed if there is any showing that the trial judge overlooked some material or substantial facts which, if given consideration, will alter the assailed decision.[65] So, too, this Court is not bound by the findings of the Sandiganbayan should it discover that the testimonies of the prosecution witnesses are marred with inconsistencies that are neither collateral nor trivial, but are material and substantial in matters determinative of petitioner's guilt beyond reasonable doubt.

In the extant case, several circumstances militate against the credibility of Ronnel Bawalan, the sole witness to the alleged inducement. His testimony defies the basic precept that evidence, to be believed, must proceed not only from the mouth of a credible witness but must be credible in itself as to hurdle the test of conformity with the knowledge and common experience of mankind.[66] To elucidate:

First, Ronnel Bawalan claimed that he personally saw the shootout and that he intently observed the events as they unfolded without blinking. He testified that he saw petitioner engage Santos in a verbal altercation in the middle of the street, but nevertheless claimed that he did not see petitioner's whereabouts when the shooting began. As he narrated during his cross-examination:

> ATTY. BATACAN
>
> Q
>
> Mr. Witness, last time you testified that you hid yourself along the poultry area, is that correct?
>
> A
>
> Yes, ma'am.
>
> Q
>
> And when the shooting started you lie flat on your belly, is that correct?
>
> A
>
> Yes, ma'am.
>
> Q
>
> And you also testified that you hid yourself in the bushes in a flash, in that point of Hash, in the area?
>
> A
>
> Yes, ma'am.
>
> Q
>
> And you also said that when the shooting started for almost five (5) minutes, you did not close your eyes or cover your ears brought about by the shooting rampage?
>
> A
>
> I was already afraid but I did not cover my eyes, ma'am.
>
> Q

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You did not wink your eyes for the successive shots?

A

No, ma'am.

Q

You did not feel deaf from the sound of the gun fire?

A

No, ma'am.

Q

So there was no reaction from you?

A

None, ma'am.

Q

So, you observed everything that transpired during the five minutes exchange of fire in the crime scene?

A

Yes, ma'am.

Q

Mr. witness, where was mayor Ambagan at the time the shooting started?

A

He was at the middle of the scene before the start of the shooting, ma'am.

JUSTICE PERALTA

In the sketch drawn by the witness. Mayor Ambagan the accused, and Patrolman Patam, the one who earlier testified were outside of the house. So, they were in the middle of the street? Immediately before the shooting. That's according to this witness.

ATTY. BATACAN

Q

During the actual firing of guns, where were Patam and accused Ambagan?

WITNESS

A

I do not know, ma'am.

x x x x

Q

From the place where you were positioned hiding in the bushes, were you able to see Mayor Ambagan and

SPO Patam before the shooting?

A

Yes, sir.

Q

And according to you, they were here, in the middle of the street?

A

Yes, sir.

Q

And according to you, you did not close your eyes nor cover your ears when the shooting started?

x x x x

A

Yes, sir.

ATTY. BATACAN

Q

When the shooting started, where were these persons Patam and Mayor Ambagan when according to you, you did not close your eyes nor cover your ears and just observed?

A

I do not know, ma'am.[67]

If it were, as Ronnel Bawalan claimed, that he watched the events closely as they unfolded, he would have noticed that petitioner and Patam walked towards the house of Miling Javier, which was only about eight (8) meters away from where they were previously situated.[68] For someone who did not even as much as wink during the ordeal, it is indeed quite curious why he would miss such a significant detail - the location of one of the main characters in the spectacle.

Second, it is unfathomable why petitioner, who, according to Ronnel Bawalan, was still in the middle of the road facing Santos immediately before the shooting, would order his men to open fire at Santos and Domingo Bawalan given that he himself would have been caught in the crossfire if they had done so.

Third, Patam's testimony interestingly, is congruent with petitioner Ambagan's version insofar as petitioner's reaction during the shooting is concerned. As can be recalled, Patam testified that petitioner wanted to go back to check on his men during the exchange of gunshots:

PROSEC. NIDUAZA:

Q

How many gunshots did you hear?

A

"Hindi ko na po nabilang eh. Basta ang putok niya dala-dalawa, yung putok ng baril."

Q

And what was the interval of two gunshots at a time did you hear?

A

Seconds only, Ma'am.

Q

Then after that, what happened next, if any. after hearing those gunshots at a time?

x x x x

WITNESS:

I was still pushing the mayor to the house of Miling Javier, Your Honor.

PROSEC. NIDUAZA

Q

And what was the reaction of the mayor when you pushed him towards the house of Miling?

A

When we were getting near the house of Miling, the mayor wanted to go back because he wanted to find out what happened to his men, Ma'am.[69]

So, too, did petitioner claim that he wanted to check specifically on Rene Amparo after he allegedly saw the latter get shot first.[70] The question then is why would petitioner want to traipse back into the line of fire of a shootout he allegedly initiated? It simply fails to see the light of reason.

Fourth, if petitioner himself was armed, as Patam claimed him to be,[71] and willing to start a shootout, according to Ronnel Bawalan, why would he then not draw his own pistol? As petitioner argued, having his gun tucked to his waist indicated that he himself was not mentally ready to engage in a gunfight.[72] Had he had the mind to start the firefight, he would have spontaneously drawn his gun. He would not have let Patam, a member of Santos' group and an easy target given his close proximity, survive the ordeal.

Fifth, Ronnel Bawalan claimed that only Santos, from his group, was wielding a firearm.[73] He likewise testified that Rene Amparo was the first one to fire his gun, hitting Santos.[74] If indeed the other victim, Domingo Bawalan, was unarmed, this would have meant that Santos, by his lone injured self, and before he fell, was able to shoot down three (3) of petitioner's men: the other casualties Leandro Causaren, Rene Amparo, and Edrelin John Jamon. Needless to say, this would have been a difficult feat to accomplish in his wounded state.

Not even Santos' rifle and marksmanship skills as a police officer could have improved his odds since he had alcohol in his system at the time of the incident. Based on Patam's narration of the events prior to the shootout, Santos came from six straight hours of merry-making, from 5PM to 11PM on July 4, 2004, at a birthday party hosted by Edgardo R. Mamuyac. Patam continued that, during the celebration, Santos downed shots of liquor,[75] which could have adversely affected his focus and aim.

Moreover, believing Ronnel Bawalan's testimony - that only Santos, from their group, was armed - would only bolster the defense argument that, in all likelihood, it was Santos who first pulled the trigger. Otherwise, he would not have had ample time to shoot and kill all three of Ambagan's bodyguards by himself before getting killed by his assailants who have already surrounded him and were armed by automatic rifles.[76] Ronnel Bawalan's

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version then makes it quite possible that it was Santos who drew first blood. While it may be, as the CA correctly observed, that even if Ronnel Bawalan was mistaken (deliberately or not) for saying that Santos first shot Rene Amparo, this could not be made to exclude the participation of Michael Malabanan, Roger Causaren, and Celestino "Ely" Garcia,[77] this would, nevertheless, negate the assertion that petitioner Ambagan initiated the shooting incident.

Sixth, Ronnel Bawalan's contradicting testimonies as to the details of Ambagan's bodyguards' demise further damage his credibility. According to Ronnel Bawalan in his Sinumpaang Salaysay,[78] he personally witnessed the deaths of Leandro Causaren and Edrelin Jamon as casualties of friendly fire. To quote:

> 22. TANONG: Habang ikaw ay nagkukubli doon sa lugar na iyong binanggit, maaari bang isalaysay mo kung ano pang mga kaganapan ang iyong nakila at naobserbahan?
>
> SAGOT: Dumating po si Mayor Ambagan na naglalakad doon sa kinapaparadahan ng kanyang van na nasa gawing unahan ng sasakyan ni Kuya Rey Santos. Kasunod po ni Mayor sina Rene Amparo, SPO4 Causaren, Konsehal Michael Malabanan, Kapilan Domingo Villasis, Ely Garcia, Flor Amparo, Roger Causaren at iba pa na di ko namumukhaang mga kalalakihan na pawing armada ng mga baril. Narinig kong nagsalita si Mayor Ambagan ng PAG-USAPAN NAT1N YAN KUNG ANUMAN ANG PROBLEMA at sumagot naman si Rey ng "MAMAYA PAGDATING NI GD SA KANYA KA MAKIPAG-USAP, DI KAMI ANG MAKAKAPAGDESISYON NITO". Hang ulit pang nagsalita si Mayor ng "PAG-USAPAN NA LAMANG NAT1N ITO" at paulit-ulit din naman siyang sinasagol ni Kuya Rey ng "SI GD NA LAMANG ANG KAUSAPIN N'YO, HINTAYIN NA LAMANG N'YO MAYOR." Kasunod noon ay narinig kong sumigaw si Mayor Ambagan ng "SIGE, IYAN PALA ANG GUSTO MO, MGA KASAMA BANATAN N'YO NA YAN". Kasunod noon ay sunod-sunod na putok ng mga baril mula kina Ely Garcia, Kap. Domingo Villasis, Konsehal Michael Malabanan, Roger Causaren at iba pa nilang mga kasama ang nakila kong direktang patama sa kapatid kong si Domingo Bawalan at Kuya Rey Santos na kapwa nagtamo ng napakaraming tama ng bala sa ulo at ibat-ibang bahagi ng katawan na nagging dahilan ng kanilang kamatayan. Natamaan din ng bala at namatay dahilan sa walang habas nilang pamamaril sina SPO4 Leandro Causaren, at Egoy Jamon na pareho ding namatay. Bago sila nagsialis ay pinagkukuha nila ang mga baril nina Kuya Rey Santos nakalibre 45. pati iyong service firearm ni SPO4 Leandro Causaren na maigsing baril at sinakyan din nila at dinala ang kulay maroon na MB 100 van napag-aari ni Mayor Ambagan.[79] (emphasis added)

But on further prodding during trial, Ronnel Bawalan admitted to not having personally witnessed the deaths of Leandro Causaren and Edrelin Jamon and that he only learned of such information from other sources:

> Q
>
> Did you come to know how many victims died in that shooting incident?
>
> A
>
> I learned there were five victims, Your Honors.
>
> Q
>
> Why do you say "napag-alaman ko"?
>
> A
>
> Because I only knew that my brother and Kuya Rey were killed. As to the others who died, I was only told about them, Your Honors.
>
> Q
>
> Who told you that?

A

By the people who went to the place of the shooting incident, Your Honors.

Q

But you knew for a fact that the three other persons who died, died because of that shooting incident?

A

Yes, Your Honors.

Q

But you cannot actually tell what really happened because according to you, you only learned of the death of the three other persons from other people?

A

Yes, Your Honors.[80] (emphasis added)

Minor inconsistencies, far from detracting from the veracity of the testimony, even enhance the credibility of the witnesses, for they remove any suspicion that the testimony was contrived or rehearsed.[81] However, the death of three (3) other individuals in this case is not a minute detail, so much so that one who claimed not to have blinked during the entire incident, as Ronnel Bawalan alleged, could not have possibly overlooked the same. This cannot simply be glossed over and treated as a badge of truthfulness, but instead plausibly raises suspicion as to his presence in the scene of the crime when it was committed.

Lastly, there is, in the case at bar, reason to believe that Ronnel Bawalan is biased against petitioner, having an axe to grind against the latter for the untimely demise of Reynaldo Santos and Domingo Bawalan, Ronnel Bawalan's "cousin-in-law" and brother, respectively.[82] Bias is that which excites "a disposition to see and report matters as they are wished for rather than as they are."[83] A witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color to his statements, or to suppress or to pervert the truth, or to state what is false. To warrant rejection of the testimony of a relative or friend, it must be clearly shown that, independently of the relationship, the testimony was inherently improbable or defective, or that improper or evil motives had moved the witness to incriminate the accused falsely.[84]

Here, Ronnel Bawalan's bias was first made manifest when he was caught in a bold-faced lie. He claimed that only Santos was armed during the firefight when in fact, his brother, Domingo Bawalan, tested positive for gunpowder nitrates.[85] This detail - whether or not Domingo Bawalan was armed - is substantial in this case since this tends to establish the probability or improbability of Santos starting the gunfight, as earlier discussed. Likewise, We have earlier demonstrated how Ronnel Bawalan distorted the truth by first claiming that he personally witnessed the deaths of Leandro Causaren and Edrelin Jamon only to recant later on and admit that he only learned of their deaths afterwards from other people who went to the site of the shooting incident. Additionally, despite having keenly observed the events unfold, Ronnel Bawalan failed to identify the location of Ambagan during the shootout, in spite of tagging the latter as the main perpetrator of the crime.

The general rule may be that where there is no evidence to indicate that the prosecution witnesses were actuated by improper motive, the presumption is that they were not so actuated and that their testimonies are entitled to full faith and credit.[86] In this case, however, there are sufficient circumstances and discrepancies in Ronnel Bawalan's testimony that impel this Court to look at his version of the facts with reasonable skepticism.

From the foregoing circumstances, We have gotten a clearer glimpse of petitioner's state of mind at the time of the

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shooting. These seemingly minute details - the second, third, fourth, and fifth circumstances specifically - readily render it unlikely, if not at all improbable, that petitioner initiated the gunfight by saying "banatan na ninyo yan." The rest of the enumeration, on the other hand, cautions this Court not to swallow Ronnel Bawalan's testimony in its entirety hook, line and sinker for his narration of facts may not be truthful or accurate.

Worthy of note is that my esteemed colleague, Associate Justice Martin S. Villarama, in his dissent, echoes the observation of the Sandiganbayan that there are indeed inconsistencies in Ronnel Bawalan's testimony, but regretfully downplays such discrepancies as inconsequential to the outcome of the case. Citing the Sandiganbayan, the position advanced is that:[87]

> It is of no moment that Ronnel's allegation that Rene fired first at Santos may be disproved with the paraffin test result, showing that Santos was positive for gunpowder nitrates while Rene was found negative. Immaterial too is the argument that Ronnel was not consistent as to when he actually learned of the deaths of the victims, other than Santos and Domingo. If Ronnel failed to accurately testify on this part, his other testimony worthy of belief cannot, nonetheless, be excluded. Even assuming that Santos shot Rene first, it should be noted that the evidence cannot believe that Santos and Domingo both died from the gunfire of Malabanan, Roger, Garcia, and other unrecognized men of Mayor Ambagan.

With all due respect, these inconsistencies are not "of no moment" and neither are they "immaterial" to the case at bar.

First, Ronnel Bawalan claimed that after petitioner Ambagan allegedly uttered the imperative phrase "banatan na ninyo yan" one of his bodyguards, Rene Amparo, was the first to fire at the direction of the victim, Santos. However, Rene Amparo's negative paraffin test would already belie such claim. Such circumstance is not "of no moment" for it raises material doubt as to who started the firefight. If Rene Amparo was the first to fall, this would mean that Santos was the first to open fire. And if the victim was the first one to open fire, then the firefight may not have been started by petitioner Ambagan's alleged instruction after all.

Second, the Sandiganbayan claimed that "[e]ven assuming that Santos shot Rene first, it should be noted that the evidence cannot belie that Santos and Domingo died from the gunfire of Malabanan, Roger, Garcia, and other unrecognized men of Mayor Ambagan." This statement misses the point. Again, the issue in the instant petition is whether or not petitioner is criminally liable as principal by inducement. Identifying Santos as the first one to shoot raises the probability that petitioner's men opened fire only in retaliation, and were not, by any means, induced by petitioner to do so.

Third, Ronnel Bawalan's knowledge, or lack thereof, of the deaths of the other victims, Leandro Causaren and Edrelin Jamon, petitioner's two (2) other bodyguards, is a material detail which tends to establish his presence or absence at the scene of the crime. If the star prosecution witness was indeed present, it would be too difficult to believe that he only witnessed the deaths of his two relatives, aside from Rene Amparo who was the first to fall. He would have at least seen that there were other dead bodies even though their identities were not known to him at that time. Confusion as to the number of casualties may be understandable if most of their identities are unknown to the witness, but for the witness to skip the detail and effectively claim that the only deaths he saw were those of the people he knew is far too convenient an omission and militates against his very credibility.

In determining the guilt of an accused beyond reasonable doubt, We entertain the probability or improbability of alternative scenarios other than what is offered by the prosecution. For this purpose, We were urged "to view Ronnel Bawalan's testimony as a whole"[88] to reconcile the inconsistencies in his statements, but as extensively discussed, Ronnel Bawalan's narration of events is not airtight and even brings to fore more reasons to disbelieve his version. Indeed, there are far too many inconsistencies in the testimony "taken as a whole" does not foreclose

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the probability that Ambagan did not initiate the firefight, and casts reasonable doubt as to his guilt as principal by inducement.

In conclusion, the scant evidence for the prosecution casts serious doubts as to the guilt of petitioner as principal by inducement. It was not convincingly established, beyond reasonable doubt, that petitioner indeed ordered his men to open fire at Santos and Domingo Bawalan. The evidence offered against him in court does not pass the test of moral certainty and is insufficient to rebut the presumption of innocence that petitioner is entitled to under the Bill of Rights.[89] And where there is reasonable doubt as to the guilt of an accused, he must be acquitted even though his innocence may be questioned,[90] for it is not sufficient for the proof to establish a probability, even though strong, that the fact charged is more likely to be true than the contrary.[91] Proof beyond reasonable doubt, more than mere likelihood, requires moral certainty — a certainty that convinces and satisfies the reason and conscience of those who are to act upon it.[92]

WHEREFORE, premises considered, the petition is hereby GRANTED. Petitioner Albert G. Ambagan, Jr. is ACQUITTED of the two counts of homicide subject of Criminal Case Nos. 28259 and 28260 on reasonable doubt. The June 21, 2012 Decision of the Sandiganbayan First Division in Crim. Case Nos. 28259-60 is hereby MODIFIED accordingly as follows:

> WHEREFORE, in light of all the foregoing, judgment is hereby rendered, as follows:
>
> 1. In Criminal Case No. 28259, accused MICHAEL T. MALABANAN, CELESTINO "ELY" GARCIA, and ROGER V. CAUSAREN are found GUILTY beyond reasonable doubt of Homicide for the death of Reynaldo Santos as principals by direct participation, and are sentenced to suffer the indeterminate penalty of Six (6) Years and One (1) Day of Prision Mayor as minimum, to Twelve (12) years and One (1) Day of Reclusion Temporal, as maximum.
>
> Further, the said accused are hereby ordered to pay jointly and severally, the heirs of Reynaldo S. Santos, the following damages:
>
> (e) The sum of P50,000.00 as civil indemnity;
>
> (f) The sum of P787,875.00 as reimbursement for the burial and funeral expenses;
>
> (g) The sum of P1,647,979.32 as compensatory damages; and
>
> (h) The sum of P50,000.00 as moral damages;
>
> 2. In Criminal Case No. 28260, accused MICHAEL T. MALABANAN, CELESTINO "ELY" B. GARCIA, and ROGER V. CAUSAREN are found GUILTY beyond reasonable doubt of Homicide for the death of Domingo Bawalan as principals by direct participation, and are hereby sentenced to suffer the indeterminate penalty of Six (6) Years and One (1) Day of Prision Mayor as minimum, to twelve (12) years and One (1) day of Reclusion Temporal as maximum.
>
> Further, they are ordered to pay jointly and severally, the heirs of Domingo Bawalan, the following:
>
> d. The sum of P50,000.00 as civil indemnity;
> e. The sum of P40,000.00 as actual damages;
> f. The sum of P50,000.00 as moral damages;
>
> Finally, in Criminal Cases No. 28259 and No. 28260, an interest of six percent (6%) per annum shall be applied to all the award of damages from the finality of judgment until fully paid.
>
> 3. In Criminal Cases No. 28259 and No. 28260, accused ALBERT G. AMBAGAN, JR., ALBERTO C. ANGCANAN, JUANITO S. LOYOLA, MELANIO S. BAYOT, FLOR AMPARO and ROSENDO V.

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CAUSAREN are hereby ACQUITTED, for failure of the prosecution to prove their guilt beyond reasonable doubt.

Considering that the act or omission from which the civil liability might arise did not exist, no civil liability is assessed against said accused.

The hold departure order issued against them by reason of these cases are hereby LIFTED and SET ASIDE, and their bonds RELEASED.

SO ORDERED.

SO ORDERED.

Perez,[*] and Mendoza,[**] JJ., concur.
Villarama, Jr., J., see dissenting opinion.
Perlas-Bernabe,[***] J., joins in the dissenting opinion of J. Villarama.

NOTICE OF JUDGMENT
Sirs / Mesdames:

Please take notice that on October 14, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 13, 2015 at 11:24 a.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

---

[*] Additional Member per Raffle dated September 30, 2015.

[**] Acting Member per Special Order No. 2084 (Revised) dated June 29, 2015.

[***] Additional Member per Raffle dated September 22, 2014.

[1] Rollo, pp. 59-141. Penned by Associate Justice Efren N. Dela Cruz and concurred in by Associate Justices Rodolfo A. Ponferrada and Rafael R. Lagos.

[2] Id. at 184-204.

[3] Id. at 60.

[4] Id. at 60-61.

[5] Rollo, p. 10.

[6] Department of Budget and Management Manual on Position Classification and Compensation.

[7] AN ACT FURTHER DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

[8]Rollo, p. 10.

[9] Id. at 61.

[10] Id. at 62-64.

[11] Id. at 64-65.

[12] Id. at 65-67.

[13]Id. at 68-69.

[14] Id. at 69-72.

[15] Id. at 72-74.

[16]Id. at 74-75.

[17] Id. at 76-77.

[18] Id. at 77-78.

[19]Id. at 78-80.

[20] Id. at 80-82.

[21] Id. at 82-83.

[22] Id. at 83-84.

[23]Id. at 84-85.

[24] Id. at 85-87.

[25] Id. at 87.

[26] Id. at 87-88.

[27] Id. at 69-74.

[28]Id. at 89-90.

[29] Id. at 90-91.

[30]Id. at 92-94.

[31]Id. at 94-96.

[32] Id. at 96-98.

[33] Id. at 99-102.

[34]Id. at 91-92.

[35]Id. at 98-99.

[36] Id. at 103-106.

[37] Id. at 106-108.

[38] Id. at 138-140.

[39] Id. at 112-113.

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[40] Rollo, pp. 142-160; supplemented by petitioner's Supplement to the Motion for Reconsideration (with Motion for Leave to Admit) dated October 1, 2012, id. at 161-183.

[41] Rollo, pp. 16-7.

[42] Id. at 444-451.

[43] Id. at 471.

[44] Id. at 487.

[45]Id. at 499-508.

[46] Id. at 512.

[47] Nacnac v. People, G.R. No. 191913, March 21, 2012, 668 SCRA 846, 858, citing People v. Jubail, G.R. No. 143718, May 19, 2004, 428 SCRA 478, 495.

[48] New City Builders, Inc. v. National Labor Relations Commission, G.R. No. 149281, June 15, 2005, 460 SCRA 220, 227: [I]t is a settled rule that in the exercise of the Supreme Courts power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[49] Nacnac v. People, supra at 858, citing People v. Lotoc, G.R. No. 132166, May 19, 1999, 307 SCRA 471, 480.

[50] G.R. No. 190969, January 30, 2013, 689 SCRA 679, 686.

[51] Rollo, pp. 111-112.

[52] People v. Batin, G.R. No. 177223, November 28, 2007, 539 SCRA 272, 283-284.

[53] People v. Villanueva. Jr., G.R. No. 187152, July 22, 2009, 593 SCRA 523, 533.

[54] Amanquiton v. People, G.R. No. 186080, August 14, 2009, 596 SCRA 366, 373.

[55] People v. Wagas, G.R. No. 157943, September 4, 2013, 705 SCRA 17, 20.

[56] TSN, July 4, 2006, pp. 23-26.

[57] TSN, May 4, 2006, pp. 35-36.

[58]TSN, May 5, 2006, pp. 14-16.

[59] Exhibit "G" Sandiganbayan rollo, Vol. 2, p. 257-258.

[60] Exhibit "G-1" Sandiganbayan rollo, Vol. 2, p. 259.

[61]Rollo, p. 26; Prosecution witness Victorino Patam merely remembered that Reynaldo Santos was armed with a .45 pistol, and that he saw two tall men carrying long firearms.

[62] May 4, 2006 TSN and May 5, 2006 TSN; rollo, pp. 251-320.

[63]People v. Jalbonian, G.R. No. 180281, July 1, 2013, 700 SCRA 280, 292; citing People v. Tulop, G.R. No. 124829, April 21, 1998, 289 SCRA 316, 332.

[64]Lumanog v. People, G.R. Nos. 182555, 185123, 187745, September 7, 2010, 630 SCRA 42, 120.

[65] People v. Mirantes, G.R. No. 92706, May 21, 1992, 209 SCRA 179, 182.

[66]People v. De Guzman, G.R. No. 192250, July 11, 2012, 676 SCRA 347, 360.

[67]TSN, July 11, 2006, pp. 5-10.

[68] TSN, May 5, 2006, p. 7.

[69]TSN, May 4, 2006, pp. 36-37.

[70] Rollo, p. 101

[71]Id. at 22.

[72] Id. at 26.

[73] TSN, July 11, 2006, p. 12:

> x x x x
>
> Q
>
> Did you see other persons who were armed other than the bodyguards of Mayor Ambagan?
>
> A
>
> Only Kuya Rey, Your Honor.

[74]TSN July 4, 2006, p. 26.

> x x x x
>
> Q
>
> And after uttering those words by Mayor Ambagan. what happened next, if any?
>
> A
>
> I heard several shots being fired by Rene Amparo, Ma'am.

[75] TSN May 4, 2006, pp. 24-25.

> x x x x
>
> Q
>
> So where did you proceed, if any?

A

After that, we went to the house of PO3 Edgardo Mamuyac because it was the birthday of his son, Ma'am.

Q

So what time did you arrive at his place?

A

It was about past 5:00 o'clock p.m., Ma'am.

x x x x

Q

And what did you do in Mamuyac's place?

A

Because it was the birthday celebration of his son. we were "pa kanta-kanta" and "pa shot-shot," Ma'am.

Q

And until what time did you stay at Mamuyac's place?

A

We staved there until about 11:00 o'clock in the evening, Ma'am.

[76] Rollo, p. 22.

[77]Id. at 201.

[78] Id. at 205-208, dated July 27, 2004.

[79] Id. at 207.

[80] TSN, July 4, 2006, pp. 51-53.

[81] People v. Lucero, G.R. No. 179044, December 6, 2010, 636 SCRA 533, 538.

[82] Rollo, p. 72.

[83] Sison v. People, G.R. Nos. 170339, 170398-403, March 9, 2010, 614 SCRA 670, 680.

[84] Tarapen v. People, G.R. No. 173824, August 28, 2008, 563 SCRA 577, 592.

[85] Rollo, p. 22. See also Exhibit "DDD," Sandiganbayan rollo, Vol. 2, p. 357.

[86] People v. Salcedo, G.R. No. 178272, March 14, 2011, 645 SCRA 248, 264.

[87] Dissenting Opinion of Associate Justice Martin S. Villarama, pp. 2-3, citing Rollo, pp. 118-119.

[88] Id. at 2.

[89] 1987 Constitution. Article III, Section 14 (2): In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production

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of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused: Provided, that he has been duly notified and his failure to appear is unjustifiable. (emphasis added)

[90] People v. Divina, G.R. No. 146423, November 12, 2002, 391 SCRA 430, 436.

[91] United States v. Reyes, G.R. No. L-1374, December 3, 1903, 3 Phil. 3, 6.

[92] Id. at 6.

DISSENTING OPINION
VILLARAMA, JR., J.:

With due respect to my colleague and Member-in-Charge of this case, Justice Velasco, Jr., I disagree with his ruling to acquit, on ground of reasonable doubt, petitioner former Mayor Albert G. Ambagan, Jr. from the charge of two counts of homicide in connection with the fatal shooting of SPO2 Reynaldo Santos and Domingo Bawalan on July 4, 2004 at past midnight in Amadeo, Cavite when the latter tried to apprehend certain motorcycle-riding men carrying firearms.

As a general rule, an appellate court will not disturb the findings of the lower court, unless there appears in the record some facts or circumstances of weight and influence which has been overlooked or the significance of which have been misinterpreted.[1]

Perusing the appealed decision and the evidence on record, I find no such fact or circumstance of weight and significance which has been overlooked or misappreciated by the Sandiganbayan regarding the participation of petitioner in the shooting incident that took place in his presence. All the matters discussed in the ponencia have already been thoroughly passed upon and exhaustively discussed by the Sandiganbayan in its decision convicting petitioner of the crime charged.

The issue boils down really to the credibility of prosecution eyewitness, Rommel Bawalan, who categorically testified that petitioner ordered his armed bodyguards and co-accused to fire at the victims.

This Court has consistently held that matters affecting credibility are best left to the trial court because of its unique opportunity of having observed that elusive and incommunicable evidence of the witness deportment on the stand while testifying.[2] The Member-in-Charge found it highly irregular that out of several witnesses presented by the prosecution, only Ronnel Bawalan testified that petitioner uttered the words "Sige yan pala ang gusto mo. Mga kasama banatan na ninyo yan" in those moments of petitioner's intense anger over the repeated rejection by SPO2 Santos of his request to just talk over the matter respecting certain individuals whom Santos had just apprehended and whose illegal firearms he was confiscating at the time. However, this alleged discrepancy pointed out by the defense was already satisfactorily explained and judiciously resolved by the Sandiganbayan, as follows:

> The Court is not convinced that Ambagan could not have made such utterance, because Patam, who was with the Mayor at that moment, had not mentioned about it in his testimony. Patam testified that when he was pushing Mayor Ambagana to Javier's house, the Mayor was shouting invectives at Santos. Distinctly, Patam remembered the Mayor telling Santos, "Ang hirap mong kausap." This was followed by more statements, but Patam could no longer understand them. It is of common knowledge that the nearness of the speaker to the hearer is not necessarily determinant of what the speaker actually said or did not say. In other words, whatever Patam had heard does not exclude what Ronnel had perceived, simply because Patam was nearer to Mayor Ambagan. A hearer's perception of speaker's utterance is affected by other factors, such as the hearer's attention and understanding or interpretation about what has been said. At that time, Ronnel was differently

> situated from Patam. While Ronnel was simply a spectator waiting for what was going to happen next, Patam was in a move involved stance, being into the situation himself. He was foreseeing possible trouble which to his mind needed to be contained. In fact, Patam decided to bring the Mayor to Javier's house when he sensed that the awkward situation was heating up. Faced with these concerns, it was not unlikely that Patam may have missed the other words of Mayor Ambagan. On the other hand, Patam;s testimony about Mayor Ambagan's remarks only corroborates Ronnel's testimony, rather than discredit it. Infuriated with Santos' refusal to accommodate his requests, Mayor Ambagan bellowed unsavoury words to him. His tirade supports the possibility that he directed his men to fire at Santos. This was validated when gunfire ensued shortly after his command. That command induced Garcia and Roger Causaren to shoot Santos and Domingo.[3]

The other perceived inconsistencies and improbabilities pointed out in the ponencia which supposedly casts doubt on the truthfulness of Ronnel's eyewitness account, were also addressed by the Sandiganbayan, viz.:

> The aforecited testimony of Ronnel on cross-examination should not be taken in isolation. Ronnel may not have adequately portrayed the exchange of shots between Santos and Rene per se. However, it cannot be denied that in his other declarations, he was categorical too, that the bodyguards of Mayor Ambagan fired shots. These seemingly inconsistent statements are reconcilable, if Ronnel's testimony is viewed as a whole. He saw Santos and Rene fired at each other, and successive firings happened from the companions of Mayor Ambagan, although, Ronnel could not specifically name them all. For one, he did not know some of the bodyguards. For another, it is impossible for him to describe in detail who fired in succession, because there were many gunmen involved, and the interval between gunfire was just a matter of seconds.
>
> It is of no moment that Ronnel's allegation that Rene fired first at Santos may be disproved with the paraffin test result, showing that Santos was positive for gunpowder nitrates while Rene was found negative. Immaterial too is the argument that Ronnel was not consistent as to when he actually learned of the deaths of the victims, other than Santos and Domingo. If Ronnel failed to accurately testify on this part, his other testimony worthy of belief cannot, nonetheless, be excluded. Even assuming that Santos shot Rene first, it should be noted that the evidence cannot belie that Santos and Domingo both died from the gunfire of Malabanan, Roger, Garcia, and other unrecognized, men of Mayor Ambagan.[4]

The testimony of a single witness has been held sufficient to establish the guilt of the accused, and if found positive and credible, is sufficient to convict the accused even in a murder charge.[5] Also, failure of a witness to reveal to the authorities that he witnessed a crime and to reveal the identities of the offender for a number of days, weeks or even a number of years, is allowable if there is a valid reason for such delay, as even a ten-year delay was still acceptable.[6]

Here, the Sandiganbayan ruled that petitioner is guilty as principal by inducement considering the attendant circumstances clearly indicating that petitioner's bodyguards would not have fired their guns at SPO2 Santos and Domingo had he not ordered them to do so. It also held that Ronnel Bawalan's delay of 22 days in reporting what he witnessed during the shooting incident, did not impair his testimony, which the Sandiganbayan found as bearing no earmarks of falsehood.

It is evident that petitioner herein seeks a review by the Court of the factual findings of the Sandiganbayan, which essentially involve the credibility of the testimonies of the witnesses. As the issue of credibility is to be resolved primarily by the trial court, I see no reason to reverse the findings and conclusions made by the Sandiganbayan as they are supported by the testimonial and documentary evidence on record.

I therefore VOTE to deny the petition.

---

[1] People v. Gomez, 450 Phil. 253, 261 (2003), citing People v. Alcodia, 446 Phil. 881, 891 (2003) further citing

Cueme v. People, 390 Phil. 294, 302 (2000) and People v. Pascual, 387 Phil. 266, 280 (2000).

[2] Id. at 260-261.

[3] Rollo, pp. 124-125.

[4] Id. at 118-119.

[5] People v. Villamor, 424 Phil. 302, 316 (2002).

[6] People v. Aquinde, 457 Phil. 207, 225 (2003), citing People v. Dacibar, 382 Phil. 618 (2000); People v. Bautista, 352 Phil. 665, 679 (1998); and People v. Rimorin, 387 Phil. 925 (2000).

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