

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJAMIN RAMIREZ SARINO, CHARLITO RAMIREZ SARINO AND OSCAR FLORA, ALIAS "OCA," ACCUSED. BENJAMIN RAMIREZ SARINO AND OSCAR FLO...

G.R. Nos. 94992-93. April 07, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Accused Benjamin Ramirez Sarino, Charlito Ramirez Sarino (who is still at large^[1] and consequently has not been arraigned) and Oscar Flora, alias "Oca," were charged on April 7, 1988 in Criminal Cases Nos. 6200-MN and 6201-MN of the Regional Trial Court of Malabon, Metro Manila, Branch 72, with murder and frustrated murder in separate informations of the following import:

For Murder in Criminal Case No. 6200-MN

"That on or about the 25th day of February, 1988, in the Municipality of Navotas, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a Samurai (sic), conspiring and confederating and mutually helping with (sic) one another, with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one JOLITO ROSEL Y RONDINA,* hitting the latter at the right side of the body, thereby inflicting upon the latter stab wounds which immediately caused his death."^[2]

For Frustrated Murder in Criminal Case No. 6201-MN

"That on or about the 25th day of February, 1988, in the Municipality of Navotas, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring and confederating and mutually helping with (sic) one another with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Nympha Rosel, thereby performing all the acts of execution which would have produced the crime of Murder, but did not produce the same for (sic) reason of causes independent of the accused's will, that is, the able and timely medical attendance given to the victim Nympha Rosel which prevented her death."^[3]

Herein accused-appellants Benjamin Ramirez Sarino and Oscar Flora, duly assisted by counsel de oficio, Atty. Froilan Zapanta, pleaded not guilty at the arraignment,^[4] hence trial on the merits ensued with respect to these appellants.

The factual antecedents of this case, as found from the prosecution's evidence by the court a quo and reiterated by the Solicitor General with page references to the transcripts of the stenographic notes of the trial, have been further carefully reviewed by us and, finding the same to be correct, we reproduce hereunder the pertinent parts thereof.

"x x x on February 25, 1988 at past 9:00 p.m., Jolito Rosel was in his house at Isla Puting Bato, Navotas, Metro

Manila. He was with his wife Nympha, his mother Encarnacion and sister Ceferina. They ha(d) just arrived from the nearby house of Ceferina where they had a sort of reunion occasioned by the arrival of Encarnacion from Cebu. Jolito, who sat at the bench in the front portion of the house, asked (for) coffee from his wife and had taken one sip thereof only when all of a sudden accused Oscar Flora, together with Charlito Ramirez Sarino, arrived. Oscar grabbed Encarnacion by the hair and her head struck against (sic) a gun held by Oscar. The latter said 'you are good for only one bullet' to Encarnacion. Charlito confronted Ceferina, who is the wife of his brother Bienvenido, held her by the hair also and pointed a long bolo at her neck. Charlito told Ceferina not to move. At this point, accused Benjamin Ramirez Sarino, brother of Charlito, entered the place. He came from his nearby house where he, Charlito and Oscar were earlier drinking beer. Benjamin shouted 'putang ina ninyo' and immediately stabbed Jolito with a knife who (sic) was hit in the right side of the abdomen (Exh. E-1). Nympha shouted for help, saying her husband was stabbed. At this point, Benjamin also stabbed her at the right side of the stomach. Nympha was then two months pregnant. Soon after Jolito and Nympha were stabbed by Benjamin with a knife, the latter urged his companions to ran (sic) away and all of them did.

"Jolito and Nympha were rushed to the Tondo Medical Center where Nympha was operated on to prevent her death (Exhs. C and C-1). Jolito died and the cause of his death was: 'shock, traumatic, due to a stab wound that lacerated the abdominal aorta and the bladder' (Exhs. D and D-1).

"There was no known quarrel between Jolito and Benjamin, Oscar and Charlito. Their relationship was cordial. There was, however, some misunderstanding brought about by Jolito's calling the attention of Benjamin to the decreasing width of a nearby canal resulting in the increase of the area occupied by Benjamin's house." [5]

The contrary presentation of the defense, based on the evidence presented by both appellants, was likewise completely summarized by the trial court in its decision.

"Accused Benjamin Ramirez Sarino, after denying the accusations against him, insisted that he was already asleep but was awakened by shouts being made by Jolito who was challenging the 'matatapang' in the place to come out. He ignored the challenge. Shortly, thereafter, he heard Encarnacion saying 'saklolo'. Benjamin looked out from his house's window and saw Jolito lying prostrate on the ground, face up, already allegedly stabbed. Benjamin planned to go down but his wife prevented him from doing so for fear of involvement in the incident as the assailant/s may return. He and his wife then went to sleep. Early the following morning, Benjamin left for work in Alabang where his wife visited and told him that they should not go home to their house anymore because Cesar, Jolito's brother, was saying Benjamin killed Jolito. Benjamin was arrested after sometime during the wake for his dead child at his in-laws' residence in Bagong Silang.

"Benjamin's version was corroborated by his wife and witnesses Elizabeth Marquez and Daisy Alarcon, who both claimed having seen Oscar stabbed (sic) Jolito and probably Nympha also.

"Accused Oscar Flora, for his part, claimed that he, being an officer of the Barangay Tanod Brigade, was at the Barangay Tanod Outpost when two Barangay Tanods by the names of Paterno and Edison arrived and asked him to go with them to the scene of the stabbing incident. He saw a commotion thereat and (was) told that Jolito was stabbed. He asked Edison and Paterno to bring Jolito to the hospital. Encarnacion, who was 'nagwawala', was pacified by him. She even gave P10.00 for the tricycle fare to bring Jolito to the hospital. He did not notice that Nympha was stabbed or with blood. Paterno, however, saw her bloodied.

"Oscar saw and talked to Ceferina who said Jolito was stabbed by Benjamin. Oscar went to the latter's house but was told Benjamin was no longer there. Encarnacion told him the Sarino brothers had already left.

"Oscar denied the accusations against him. He was not aware of any reason at all for being implicated in these cases. He added that he continued residing in the place which he never left. His arrest by Navotas policemen in his in-laws' house in Fairview on October 9, 1989 was just a coincidence. He came from work and merely passed by the place." [6]

The case for the prosecution having found favor with the lower court, on March 7, 1990 it rendered judgment containing the following decretal portion:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused Benjamin Ramirez Sarino and Oscar Flora guilty beyond reasonable doubt of the crimes of Murder, for the death of Jolito Rosel, and Frustrated Murder, for the stabbing of Nympha Rosel, and they are each hereby sentenced to two prison terms, as follows:

1. In Criminal Case No. 6200-MN for Murder, defined and penalized under Article 248 of the Revised Penal Code: life imprisonment or reclusion perpetua;

2. In Criminal Case No. 6201-MN for Frustrated Murder, defined and penalized under Article 248, in relation to Article 50, of the Revised Penal Code: SIX (6) YEARS, ONE (1) MONTH and ELEVEN (11) DAYS of prison mayor, as minimum, to TWELVE (12) YEARS, FIVE (5) MONTHS and TWENTY (20) DAYS of reclusion temporal, as maximum.

"The two accused Benjamin Ramirez Sarino and Oscar Flora are ordered to pay Nympha Rosel P30,000.00 for the loss of her husband's life as indemnification therefor and to pay the costs.

"The two accused, who are detention prisoners, if they agreed in writing to abide by the rules governing the conduct of convicted prisoners shall be credited in full for the preventive imprisonment they have already undergone in connection with these cases, otherwise, they shall only be credited with 4/5 thereof." [7]

In a bid to gain reversal of the lower court's judgment, appellants have come to us, each with his own assignment of errors on the bases of which they fault the court below hoping to undermine its decision.

Appellant Sarino avers that the lower court erred in (1) holding that he was the one who stabbed the spouses Jolito and Nympha Rosel despite the clear, truthful and unbiased testimonies of other eyewitnesses to the incident pinpointing Oscar Flora as the perpetrator of the acts; (2) having favorably appreciated the evidence of the prosecution instead of having favorably appreciated his evidence; (3) convicting him of the crimes of murder and frustrated murder as charged in the information rather than of the lower offenses of homicide and frustrated homicide, assuming but without admitting that he was the assailant; and (4) convicting instead of acquitting him on the ground that his guilt has not been proven beyond reasonable doubt. [8]

Appellant Flora, on the other hand, substantially asserts that the court a quo erred in (1) finding the existence of a conspiracy among appellants; (2) finding him guilty beyond reasonable doubt of the crimes charged; and (3) not acquitting him thereof. [9]

Undoubtedly, the instant cases furnish another occasion to reiterate the settled doctrine that the appellate courts will not disturb the factual findings of the trial court, especially as to credibility of witnesses; that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed except for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying. [10] We shall nevertheless analyze the respective submissions of the parties in these cases.

It is an established fact that the deceased Jolito Rosel was stabbed to death and that his wife Nympha was likewise stabbed but, due to timely medical assistance, was fortunate enough to have a second lease on life. The question posed by the asseverations of appellants, however, is who perpetrated the killing of the deceased husband and the stabbing of his wife who, at that time, was two months on the family way.

Just like two sides of the coin, the cases at bar present two conflicting contentions. The prosecution witnesses consistently point to appellant Benjamin Ramirez Sarino as the one who stabbed the deceased Jolito and his wife

Nympha, while appellant Oscar Flora and Charlito Ramirez Sarino were holding the deceased's mother and sister. On the other hand, the two appellants, each hoping to exculpate himself, respectively point to the other as the possible culprit by each of them denying that he was at the scene of the crime at the time the criminal acts were committed. Parenthetically, the half-hearted invocations of the defense of alibi by appellants need not be glorified by a discussion of the puerility thereof nor by the banality of authorities refuting the same.

From a painstaking scrutiny of the records and a thorough consideration of the evidence, we have no reason to doubt the veracity and the accuracy of the identification made by the prosecution witnesses. Three eyewitnesses who were at the scene of the crime, namely Encarnacion, Ceferina and Nympha, all surnamed Rosel, positively identified appellants as the culprits in the slaying of the deceased and the wounding of his wife.[11] The trial court found their testimonies as more or less with unanimity, given in a forthright, convincing and, at times, passionate manner.[12]

Encarnacion Rosel could not have been mistaken in identifying the assailants as she was at the scene of the incident and was then very near the deceased.[13] Besides, there was also a kerosene lamp there which brightly illuminated their house. This enabled her to see within the periphery of her vision all the people there.[14] A kerosene lamp gives off sufficient illumination like a "gasera" or "lamparahan," and the illumination produced by these gadgets is sufficient for the identification of persons.[15] Where considerations of visibility are favorable and the witness does not appear to be biased against the accused, his or her assertions as to the identity of the malefactor should normally be accepted. This is more so when the witness is the victim or a close relative because such a witness usually strives to remember the faces of the assailants.[16]

Another added factor is that the assailant Benjamin Ramirez Sarino is the brother of said witness son-in-law, Bienvenido Ramirez Sarino, and whenever she visits them in Navotas, she sees them all together.[17] She was able to see the short firearm which was poked at her head by appellant Oscar Flora.[18] She came to know Flora's name when, after the stabbing, appellant Sarino urged Flora to run away.[19]

Another eyewitness is the victim herself, Nympha Rosel, who positively identified appellant Sarino.[20] Her version of the incident corresponds with that of her mother-in-law, Encarnacion, in all its substantial details. They were one in pointing to all the accused as the malefactors. In her case, she was only two steps away from her deceased husband[21] and so she could not have erred in giving even the minute details of the crime. She denied that her husband ever shouted and challenged anyone to a fight as the appellants aver.[22] She corroborated her mother-in-law's narration of the incident on all material points. Furthermore, there was only a short interval of time between the acts of appellant Sarino in stabbing her and her deceased husband. After, she shouted: "Kapitbahay, tulungan ninyo po kami," appellant Sarino immediately Stabbed her.[23]

Ceferina Rosel Sarino, who is the wife of Bienvenido Sarino and the sister of the deceased, was another eyewitness who likewise positively identified appellant Benjamin Ramirez Sarino.[24] Her testimony fully substantiates the other eyewitnesses' account of the incident.

The findings and declarations of the two medico-legal officers further strengthen the eyewitnesses' version of the factual antecedents of the case. The three aforementioned eyewitnesses testified that appellant Sarino suddenly appeared inside the house and stabbed the deceased who was then sitting on a bench. Dr. Benjamin Dizon testified that the assailant, who could have been in front of the deceased, may have been standing while his victim must have been sitting.[25] The medical report shows that the victim's abdominal aorta and bladder were lacerated.[26] When Nympha Rosel shouted for help, she was stabbed at the right side of the stomach. Dr. Luisito Naguit testified that her assailant could be standing at the time of the attack.[27] Surgical procedure was performed at her abdominal cavity in order to repair the peritoneal rent.[28]

The defense belittles the fact that the prosecution witnesses were mainly composed of the mother of the deceased, his sister and his wife,[29] insinuating thereby the lack of credibility in their testimonies by reason of familial loyalty. This is sophistic reasoning.

There is absolutely nothing in our laws to disqualify a person from testifying in a criminal case in which the said person's relative was involved, if the former was really at the scene of the crime and was a witness to the execution of the criminal act.[30] Thus, in *People vs. Bragaes, et al.*,[31] we held that it was immaterial that the witnesses were related to the victim because their testimonies, independent of the relationship, were not inherently improbable in themselves, and neither was there proof that they were charged with improper motives to incriminate the appellants.

The defense also argues that the version presented by the prosecution, to the affect that appellant Sarino for no apparent reason at all would just stab the spouses Jolito and Nympha Rosel, is absurd if not too incredible to warrant belief.[32] Such argument loses sight of the fact that lack of motive does not preclude conviction when the crime and the participation of the accused therein are definitely established. Motive becomes relevant and its absence may assume determinative significance when the accused has not been positively identified, and proof thereof becomes essential only when evidence of the commission of the crime is purely circumstantial or is inconclusive.[33]

Appellant Flora, on his part, submits that no prosecution witness was presented to point to him positively as the assailant.[34] Unfortunately for him, he is legally estopped to invoke this defense and, at any rate, such pretension has explicitly been rejected by the trial court with good reason.

It is true that, according to the records of these cases, he was not identified in open court by the witnesses. This is due to the fact that at the time these witnesses testified, he had not yet been arraigned.[35] After his arraignment, the trial with respect to him proceeded and he presented Paterno Oftana who was allegedly a barangay tanod like him.[36] However, pursuant to the order of the trial court dated November 29, 1989, counsel for appellant Flora and the prosecution agreed that the evidence already adduced against appellant Sarino be deemed automatically reproduced in these cases as evidence for the prosecution against appellant Flora. Such stipulated evidence includes the admission of the latter's identity, as well as the evidence formally offered by the prosecution in these cases against appellant Sarino.[37] Moreover, in the April 16, 1990 order of the lower court denying the motion for reconsideration of the defense, it clearly held that "(i)n the course of the joint trial of the cases, he was positively identified and his participation clearly established." [38]

We have, furthermore, to reject this misrepresentation cum disclaimer by appellant Flora on the inevitable consideration that the issue on the identification of an accused hinges on the credibility of the witnesses and the determination of which, as we have repeatedly explained, is the sole province of the trial court.[39]

The defense likewise contends that the testimonies of the prosecution witnesses are tainted with falsehood and contradictions.[40] We have gone over their allegations and we are of the considered view that such inconsistencies or imperfections, if any there be, relate to minor details and the fact remains that there is no disagreement among them as to the identity of the malefactors. Such inconsistencies, if at all, demonstrate that their testimonies are spontaneous and unrehearsed. These minor inconsistencies can be attributed to the treachery of the human memory and the rigor of examination during trial.[41]

In contrast, the testimony of defense witness Elvira Ramirez, wife of appellant Sarino, cannot be invoked or relied upon by appellants for their purposes. This witness testified that it was when she heard somebody shout "saklolo" from outside her house that she looked out and saw Jolito already sprawled on the ground. She admitted that she did not actually see who stabbed Jolito.[42] She also admitted that the day after the incident, she and her husband,

appellant Sarino, as well as appellant Flora, all left their respective residences.[43] Such actuations, which she established by her voluntary admissions, are obviously not consistent with appellants' claim of innocence.

Appellant Sarino testified that it was only when somebody shouted "saklolo, saklolo, sinaksak ang anak ko" that he, together with his wife, looked out of the window.[44] It turned out that Jolito and his wife, Nympha, had been stabbed. As to why he did not bother to go down despite the cry for help from Encarnacion, he claimed that "fear overtook" him and his wife, and so they simply went to sleep.[45]

Considering that the deceased Jolito is the brother-in-law of his brother, Bienvenido,[46] and Nympha is the former's wife, and are consequently not strangers to him, we cannot understand how appellant Sarino could merely ignore them after the incident of which he was fully aware. As found by the trial court, he had no quarrel with them,[47] and his alleged fear at that time appears to be baseless considering that when he looked out of the window, he did not notice the presence of any assailant. Despite the fact that he saw Jolito being carried away to the hospital and being helped by others, he simply decided to retire that night.[48]

He tried to explain away why, after he left for work the following day, he later changed his residence, by claiming that he was informed by his wife of certain threats against them and that they were driven away from their house by the brother of Jolito Rosel.[49] The foregoing assertions of appellant Sarino strikes us as pure fabrications since, by his own admission and despite his claim of innocence, he never bothered to complain to the police or have the matter placed in the police blotter. He further admitted that he was in fact arrested while attending the wake of his child in the residence of his in-laws at Bagong Silang.[50]

He also tried to bolster his claim of innocence by presenting two witnesses in the persons of Elizabeth Marquez and Daisy Alarcon. However, Elizabeth Marquez herself was not positive as to who actually stabbed the deceased. While she did initially state that the deceased was stabbed by Oscar Flora,[51] she was thereafter constrained to admit that she came to know about him and his name only as told to her by her cousin, one Antonio Bagsal.[52]

Despite appellants' denials, however, the records show that, after the incident, all of them (including Charlito Ramirez who remains at large) could not be located at their usual places of residence.[53] In fact, there was a need for the issuance of alias warrants of arrest to effect their apprehension.[54] Needless to say, the flight of appellants bely their claims of innocence, for it is indicative of their guilt.[55] As we have often quoted: "The wicked flee when no man pursueth but the righteous are as bold as the lion." [56]

With respect to appellant Flora, it is perplexing why he never bothered to inquire into the absence of the Sarinos from their residences since February, 1988 (after the incident) up to October, 1989 despite being allegedly informed that they were the assailants of the Rosels. It is unbelievable that during the same period, he never knew that they had already been arrested, considering that he has been their neighbor and friend for a long time. Moreover, it is likewise puzzling why he, as Barangay Tanod leader, failed to report the harrowing incident to the police.[57]

We additionally find no error in the findings of the court below regarding the existence of conspiracy and treachery in these cases. Conspiracy is the common design to commit a felony. It is not participation in all the details of the execution of the crime.[58] It need not be proved by direct evidence, but can be inferred from the acts of the accused.[59] We have repeatedly held that when the accused by their acts aimed at the same object, one performing one part and the other performing another part so as to complete it, with a view to the attainment of the same object, and their acts, though apparently independent, were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments, the court will be justified in concluding that said accused were engaged in a conspiracy.[60]

The chain of circumstances attendant to these cases establishes the existence of conspiracy. Appellant Flora's act of tightly holding to Encarnacion Rosel and poking a gun at her head, coupled with Charlito Ramirez Sarino's simultaneous act of pointing a long "samurai" knife at Ceferina Rosel's neck prior to the stabbing of the deceased, undoubtedly reveal a unity of purpose. They aimed at one object, that is, to kill Jolito Rosel. Each had his own part to perform. While the fatal wound was inflicted by appellant Sarino, appellant Flora is just as guilty. Significantly, at the time Jolito and Nympha Rosel were being stabbed, Flora and Charlito Ramirez Sarino made no effort to prevent the assault.

As appropriately observed by the Solicitor General, the fact that appellant Flora and Charlito Ramirez Sarino were systematic in their approach to immobilize Ceferina Sarino and Encarnacion Rosel prior to the stabbing of Jolito Rosel and the wounding of Nympha Rosel by appellant Benjamin Ramirez Sarino, it can be inferred that conspiracy existed.[61]

The attack was also very synchronal, sudden and unexpected. The deceased was relaxing on a bench, sipping a cup of coffee when the three malefactors suddenly barged into the premises of his dwelling. Nothing could best be indicative of treachery than the mode or manner of attack chosen by the conspirators which insured the accomplishment of the crime with impunity since the victim was not afforded a chance to raise any form of defense.[62] Although the stabbing was frontal, treachery was still present as said Victim was also not in a position to offer any effective defense.[63]

Conspiracy and treachery were similarly attendant in the stabbing of Nympha Rosel. Although appellants did not principally plan to kill her, their actions nonetheless reveal that they agreed to harm anyone who would give resistance or hinder their plan of killing the deceased. This can be inferred from the fact that, upon entering the house, appellant Flora and accused Charlito Ramirez Sarino respectively threatened the deceased's mother and sister with a gun and a bolo. Nympha Rosel's act of shouting for help was a form of resistance which provoked appellant Sarino to immediately stab her. This attack was decidedly treacherous as the victim had no chance to either repel the attack or escape from the scene.

The aggravating circumstance of dwelling, there having been no provocation on the part of the victims, appears to have escaped the attention of both the lower court and the Solicitor General. Insofar as the killing of Jolito Rosel is concerned, we are inclined to resolve the doubt in favor of appellants since the records appear to concede that he was attacked while seated on a bench outside his house.[64] Although that bench was beside the steps leading to the door of the house, it cannot be considered as an integral part of a dependency of the victim's dwelling. At any rate, there being no mitigating circumstance, our rejection of said aggravating circumstance would not affect the imposable penalty for the death of the victim.

With respect to the felonious attack against Nympha Rosel, however, said aggravating circumstance of dwelling, has to be considered against appellants in the determination of their liability. This victim was definitely inside her house, standing near the door thereof when she was stabbed immediately after her husband was attacked.[65] This aggravating circumstance can be appreciated in the crime committed against her even if not alleged in the information therefor.[66]

We cannot, however, consider evident premeditation in the cases at bar, which are readily distinguishable from seemingly similar cases by reason of the rapidity of events culminating in the felonies herein charged, coupled with the fact that even the motives or actuations of the felons prior thereto are unknown. Under normal conditions, where conspiracy is directly established with proof of the attendant deliberation and selection of the method, time and means of executing the crime, the existence of evident premeditation can be taken for granted.[67] Withal, in the factual milieu of the present cases, we are persuaded that evident premeditation may not be appreciated since

there is a total absence of proof or perceptible facts from which can be inferred how and when the plan to kill the victim was hatched by the three accused or how much time elapsed before it was carried out, such that it cannot be determined if appellants had sufficient time between its inception and its fulfillment to dispassionately consider and accept the consequences.[68]

However, we are satisfied that there was a conspiratorial concord among the accused. Unlike evident premeditation, wherein a sufficient period of time must elapse to afford full opportunity for meditation and reflection and for the perpetrator to deliberate on the consequences of his intended deed, conspiracy arises on the very instant when the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it. Once this assent is established, each and everyone of the conspirators is criminally liable for the crime committed by anyone of them.[69]

WHEREFORE, on the foregoing premises, the judgment of the court a quo is hereby AFFIRMED, with the following MODIFICATIONS, viz.: (1) In Criminal Case No. 6200-MN for murder, the phrase "life imprisonment" in the dispositive portion of the judgment therein is hereby deleted and the correct terminology of reclusion perpetua is maintained; (2) in Criminal Case No. 6201-MN for frustrated murder, accused-appellants Benjamin Ramirez Sarino and Oscar Flora are sentenced to suffer an indeterminate penalty of ten (10) years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum; and (3) the death indemnity to be paid to the heirs of the deceased is increased to P50,000.00 in accordance with current jurisprudential policy.

SO ORDERED.

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

[1] Original Record, 234.

* This victim is also referred to in some portions of the record as Joelito, Julito, Diolito or Deolito Rosel.

[2] Original Record, 2.

[3] Original Record II, 2.

[4] Original Record, 6, 180.

[5] Ibid., 238-236.

[6] Ibid., 236-237.

[7] Ibid., 238-239.

[8] Brief for Accused-Appellant Sarino, 1; Rollo, 124.

[9] Brief for Accused-Appellant Flora, 1; Rollo, 93.

[10] People vs. Carcedo, 198 SCRA 503 (1991).

[11] Rollo, 140.

[12] Original Record, 237.

[13] TSN, December 14, 1988, 14.

[14] Ibid., Id., 15; February 8, 1989, 9.

- [15] *People vs. Almenario, et al.*, 172 SCRA 268 (1989).
- [16] *People vs. Santito, Jr., et al.*, 201 SCRA 87 (1991).
- [17] TSN, February 8, 1989, 6.
- [18] *Ibid.*, February 15, 1989, 5.
- [19] *Ibid.*, *id.*, 6.
- [20] *Ibid.*, March 1, 1989.
- [21] *Ibid.*, February 15, 1989, 14.
- [22] *Ibid.*, April 5, 1989.
- [23] *Ibid.*, April 12, 1989, 9.
- [24] *Ibid.*, November 23, 1988, 2; May 10, 1989, 5.
- [25] *Ibid.*, August 7, 1989, 4.
- [26] *Ibid.*, *id.*, 7; Exh. E; Original Record, 122.
- [27] *Ibid.*, *id.*, 8.
- [28] Exh. C; Original Record, 133.
- [29] Brief for Accused-Appellant Flora, 6; Rollo, 98.
- [30] *People vs. De la Cruz, et al.*, 207 SCRA 632 (1992).

[31] 203 SCRA 555 (1991).

- [32] Brief for Accused-Appellant Sarino, 7; Rollo, 130.
- [33] *People vs. Ballinas*, 202 SCRA 516 (1991).
- [34] Brief for Accused-Appellant Flora, 6; Rollo, 98.
- [35] TSN, November 6, 1989, 9.
- [36] *Ibid.*, January 3, 1990, 14.
- [37] Original Record, 191.
- [38] *Ibid.*, 249.
- [39] *People vs. Ballinas*, *supra*.
- [40] Brief for Accused-Appellant Sarino, 7-9; Rollo, 130-132.
- [41] *People vs. Como*, 202 SCRA 200 (1991).
- [42] TSN, September 4, 1989, 4, 6.
- [43] *Ibid.*, *Id.*, 6-9.
- [44] *Ibid.*, September 18, 1989, 4.

- [45] Ibid., September 25, 1989, 7, 10-11.
- [46] Ibid., September 18, 1989, 3.
- [47] Original Record, 235; TSN, February 15, 1989, 7.
- [48] TSN, September 25, 1989, 11.
- [49] Ibid., id., 14-15.
- [50] Ibid., id., 15-16.
- [51] Ibid., October 2, 1989, 7.
- [52] Ibid., id., 7-8; October 9, 1989, 4.
- [53] Original Record, 3; Original Record II, 2-3.
- [54] Original Record II, 3.
- [55] *People vs. Alabaso*, 204 SCRA 458 (1991); *People vs. Babac*, 204 SCRA 968 (1991).
- [56] Proverbs, 28:1, The Holy Bible, King James Version, 569.
- [57] TSN, December 27, 1989, 7-8.
- [58] *Venturina vs. Sandiganbayan*, 193 SCRA 40 (1991).
- [59] *People vs. Alitao*, 194 SCRA 120 (1991); *People vs. Umbrero, et al.*, 196 SCRA 821 (1991).
- [60] *People vs. Geronimo, et al.*, 53 SCRA 246 (1973), and cases therein cited.
- [61] Brief for the Appellee, 19; Rollo, 203.
- [62] *People vs. Gabatin, et al.*, 203 SCRA 225 (1991).
- [63] See *People vs. Cuadra*, 85 SCRA 576 (1978).
- [64] TSN, January 15, 1989, 4; March 1, 1989, 12.
- [65] Ibid., March 1, 1989, 9-10, 17.
- [66] *People vs. Collado*, 60 Phil. 610 (1934); *People vs. Domondon*, 60 Phil. 729 (1934).
- [67] *People vs. Custodio, et al.*, 97 Phil. 698 (1955).
- [68] *People vs. Upao Moro*, 101 Phil. 1226 (1957).
- [69] *People vs. Monroy, et al.*, 104 Phil. 759 (1958).

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