

## THIRD DIVISION

[ G.R. No. 170974, March 03, 2008 ]

**ROMEO I. SUERTE-FELIPE, Petitioner, vs. PEOPLE OF THE PHILIPPINES, Respondent.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari* praying for the reversal of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR No. 26162 dated 29 December 2005 affirming with modification the Decision<sup>[2]</sup> of the Regional Trial Court of Pasay City, Branch 117, in Criminal Case No. 00-0182, convicting petitioner Romeo I. Suerte-Felipe of the crime of homicide for the death of one Godofredo Ariate.

The Information filed against petitioner dated 15 November 1999 charged him with homicide:

The undersigned Asst. City Prosecutor accuses ROMEO SUERTE I. FELIPE of the crime of HOMICIDE committed as follows:

That on or about July 11, 1999, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with intent to kill, did, then and there willfully, unlawfully and feloniously shot by means of a firearm one GODOFREDO ARIATE, thereby, inflicting upon the latter gunshot wounds which caused his death.<sup>[3]</sup>

The prosecution's version of the 11 July 1999 incident is as follows:

Prosecution witness Rodolfo Alumbres testified that he was in Bgy. 180, Maricaban, Pasay City at around 7:30 that night. Around four-arms length from him were petitioner Suerte-Felipe and the deceased Godofredo Ariate, who were arguing over something. Petitioner was accompanied by PO3 Edison Madriago and PO3 Eduardo Jimeno.<sup>[4]</sup> Petitioner was armed with a .45 caliber firearm, while Madriago and Jimeno were each armed with a 9mm firearm. All of a sudden, petitioner fired around four shots at Godofredo. Seeing Godofredo fall down, Alumbres rushed to his aid and attempted to bring the latter to the hospital, but petitioner shot him twice and hit him once on the right leg. Fearing that he might be shot again, Alumbres pretended to be dead.

Godofredo's son, William Ariate, and Barangay Chairman Pio Arce witnessed the incident. Arce, upon arriving at the scene of the crime, attempted to appease petitioner by shouting, "Romy, *ayusin na lang natin 'to.*" Petitioner did not heed Arce's appeal and instead fired at Arce. Arce used his .38 caliber revolver to defend himself against petitioner who was then more than six meters from him. Arce took

cover and exchanged fire with petitioner. Petitioner's companions, Madriago and Jimeno, also fired at Arce.

Godofredo was declared dead on arrival at the Pasay City General Hospital. Edgardo Ariate, another son of Godofredo, identified the body and requested an autopsy examination. Dr. Ludovino J. Lagat, Jr. conducted the autopsy, which showed that Godofredo sustained three gunshot wounds which caused his death. The first wound was located at the outer portion of his right arm. The second wound was at the right flank and the third wound was at the epigastric area, both affecting the intestines and the liver. Armando Mancera, photographer of the Medico-Legal Division of the NBI, took pictures of the body.

Ballistics examination of the slug revealed that the slug was fired from a .45 caliber pistol. Bonifacia Casiñas Ariate presented a marriage contract to prove that she was Godofredo's lawful wife. She also presented receipts amounting to P21,800.00 representing the expenses during Godofredo's funeral.

Petitioner had a different version of the events of that night.

Petitioner testified that it was the deceased, Godofredo Ariate, and his six to seven companions, which included Pio Arce and William Ariate, who were the unlawful aggressors that night. Godofredo was irked when petitioner chided him for cursing and slapping a retarded boy in the streets. Godofredo and his companions attacked and repeatedly stabbed petitioner. Madriago and Jimeno were also attacked by Godofredo's group. Arce fired at petitioner, Jimeno and Madriago using a .38 caliber revolver. At this point, petitioner drew his .45 caliber firearm in self-defense and accidentally fired it in an upward direction.

Danilo Villa, a street vendor, came out for the first time to narrate what he allegedly witnessed on the night of the incident. Villa practically backed up petitioner's testimony. He said that he did not report what he saw to the police, nor did he tell his wife or any of his relatives about it.

The defense would have also presented as witness Dr. Roger Archangel, the doctor who performed surgeries on petitioner, but his testimony was dispensed with as explained in the trial court's 20 September 2001 Order:

(T)he formal taking of the testimony of Dr. Archangel was dispensed with after the prosecution agreed that: (1) Dr. Archangel was the one who attended and treated the accused for the injuries he sustained as reflected in the Medical Records as marked in Exhibits "1", "1-a". "1-b", "1-c", "1-d", "1-e", "1-f", "1-g" and "1-h". By reason of this stipulation, the testimony of Archangel is dispensed with and the fact, among others, that the accused sustained injuries as shown in the aforesaid exhibits, now form part of the record of this case as evidence for the accused.<sup>[5]</sup>

On 8 November 2001, the Regional Trial Court found petitioner guilty as charged, to wit:

WHEREFORE, accused ROMEO I. SUERTE FELIPE is hereby found GUILTY beyond reasonable doubt of the crime of HOMICIDE.

Accordingly, said accused is hereby sentenced to suffer an indeterminate penalty of EIGHT (8) YEARS and ONE (1) DAY of prison mayor as minimum, to SEVENTEEN (17) YEARS of reclusion temporal, as maximum.

Moreover, said accused is hereby ordered to pay the heirs of Godofredo Ariate the sum of P50,000.00 as indemnity for the death of Godofredo Ariate, P21,800.00 as actual damages, and to pay the costs.<sup>[6]</sup>

Petitioner appealed to the Court of Appeals assigning the following as errors:

- I. THE TRIAL COURT ERRED IN CONCLUDING THAT IT WAS GODOFREDO ARIATE'S BODY THAT WAS AUTOPSIED BY DR. LUDOVINO LAGAT;
- II. THE TRIAL COURT ERRED IN CONCLUDING THAT THE SLUG RECOVERED BY DR. LUDOVINO LAGAT CAME FROM THE FATAL WOUND THAT KILLED GODOFREDO ARIATE;
- III. THE TRIAL COURT ERRED IN CONCLUDING THAT THE SLUG RECOVERED BY DR. LUDOVINO LAGAT CAME FROM THE .45 FIREARM OF THE APPELLANT;
- IV. THE TRIAL COURT ERRED IN DISMISSING THE TESTIMONY OF APPELLANT AS CONFUSED AND UNBELIEVABLE, AND THAT OF DANILO VILLA AS THAT OF A PLANTED WITNESS; AND
- V. THE LOWER COURT ERRED IN RELYING HEAVILY ON THE TESTIMONIES OF RODOLFO ALUMBRES AND PIO ARCE NOTWITHSTANDING THEIR LACK OF CREDIBILITY.<sup>[7]</sup>

On 29 December 2005, the Court of Appeals rendered the assailed Decision, disposing of the case as follows:

WHEREFORE, the assailed decision of the Regional Trial Court of Pasay city, Branch 117, in Criminal Case No. 00-0182, convicting appellant Romeo I. Suerte-Felipe of homicide is hereby AFFIRMED with the MODIFICATION that an additional amount of Fifty Thousand Pesos (P50,000.00) is awarded to the heirs of the victim Godofredo Ariate as moral damages. No pronouncement as to costs.<sup>[8]</sup>

Petitioner filed the instant *Petition for Review on Certiorari*, raising the following arguments:

- I. THERE IS REASONABLE DOUBT AS TO THE GUILT OF PETITIONER THERE BEING NO CLEAR EVIDENCE TO SUPPORT THE CONCLUSION THAT IT WAS GODOFREDO ARIATE'S BODY THAT WAS AUTOPSIED BY DR. LUDOVINO LAGAT.
- II. ASSUMING *ARGUENDO* THAT THE AUTOPSIED BODY WAS THAT OF GODOFREDO ARIATE, STILL THERE IS REASONABLE DOUBT THAT PETITIONER IS GUILTY THERE BEING NO CLEAR EVIDENCE THAT THE SLUG IN QUESTION WAS RECOVERED FROM ANY FATAL WOUND THAT CAUSED HIS DEATH.

III. ASSUMING *ARGUENDO* THAT THE SLUG IN QUESTION WAS RECOVERED IN ANY FATAL WOUND, STILL THERE IS REASONABLE DOUBT AS TO PETITIONER'S GUILT THERE BEING NO CLEAR EVIDENCE THAT THE SAME SLUG CAME FROM THE .45 FIREARM OF PETITIONER

IV. THERE IS REASONABLE DOUBT THAT PETITIONER IS GUILTY SINCE THE CONCLUSION THAT HIS TESTIMONY IS AS "CONFUSED AS IT IS UNBELIEVABLE", AND THAT OF HIS WITNESS DANILO VILLA AS THAT OF A "PLANTED WITNESS" IS CONTRARY TO ESTABLISHED FACTS AND APPLICABLE DECISIONS OF THIS HONORABLE COURT

V. THERE IS REASONABLE DOUBT AS TO PETITIONER'S GUILT, HIS CONVICTION BEING BASED ON THE TESTIMONIES OF RODOLFO ALUMBRES AND PIO ARCE NOTWITHSTANDING THEIR LACK OF CREDIBILITY AS THE TRIAL COURT ITSELF EXPRESSLY ACKNOWLEDGED<sup>[9]</sup>

The arguments presented by both sides concerning the guilt or innocence of petitioner can be divided into two sets: those concerning physical evidence, and those concerning testimonial evidence. We are going to tackle these sets of evidence seriatim.

### **Physical Evidence**

Petitioner unleashed a three-pronged attack against the physical evidence presented by respondent. Firstly, petitioner claims that there is no clear evidence to support the conclusion of the Court of Appeals that it was Godofredo Ariate's body that was autopsied by Dr. Ludovino Lagat. Secondly, petitioner claims that assuming *arguendo* that the autopsied body was that of Godofredo Ariate, there is no clear evidence that the slug in question was recovered from a fatal wound that caused Godofredo Ariate's death. Lastly, petitioner argues that assuming *arguendo* that the slug in question was recovered from a fatal wound, there is no clear evidence that the same slug came from the .45 firearm of petitioner.

At the outset, we must stress that while physical evidence ranks very high in our hierarchy of trustworthy evidence and can be relied upon principally to ascertain the truth,<sup>[10]</sup> presentation thereof is not absolutely indispensable to sustain a conviction. Petitioner's stance that the insufficiency of physical evidence inevitably leads to acquittal is flawed, as we have, on several occasions, sustained convictions based on purely testimonial evidence. In the same manner, guilt beyond reasonable doubt may be produced by the amalgamation of certain physical and testimonial evidence which, when taken separately, would have been insufficient to sustain a conviction.

### **Whether the autopsied body was that of Godofredo Ariate**

Petitioner claims that a most sedulous reading of Dr. Lagat's testimony engenders reasonable doubt since it shows that he himself was uncertain and incompetent to prove that the body he autopsied was that of Godofredo Ariate. He allegedly admitted that he had no personal knowledge of who signed the Request for Autopsy<sup>[11]</sup> and the Certificate of Identification of Dead Body,<sup>[12]</sup> and that no relative of Godofredo was around to identify the body during autopsy.

Petitioner further argues that the following facts on record engender reasonable doubt that it was Godofredo Ariate's body that was autopsied:

1. Dr. Lagat testified that apart from him, only the embalmer was around during the autopsy. But there was no showing whatsoever that the said embalmer knew Godofredo Ariate personally;
2. The prosecution rested its case without presenting any representative of the funeral parlor and/or any friend or relative of Godofredo Ariate, including Godofredo's son, William Ariate, to properly identify on the said Request for Autopsy and Certificate of Identification of Dead Body.

The pertinent portions of Dr. Lagat's testimony, cited by petitioner, are as follows:

Q When you do conducted medico legal examinations they are always predicated on written request either by the police agency or any particular person interested, isn't it?

A Yes, sir.

Q And that request is always in writing?

A Yes, sir.

Q Among that, precisely, is your Exhibit "A" where it appears that a certain Eduardo Ariate signed. I'm showing to you.

A This is the request I received.

x x x x

Q And of course, since you did not prepare this it was only referred to you, you do not know actually the signature appearing there?

A Yes, Sir.

Q You did not see him signed (sic)?

A Yes, sir.

Q And of course, too, the specimen submitted, since you did not prepare it, you merely rely [on] what appears here?

A Yes, sir.

Q In fact, even the date and place of the alleged incident you don't have personal knowledge, of