

## SECOND DIVISION

**[ G.R. No. 115985-86, August 31, 2000 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN JARANDILLA, ACCUSED-APPELLANT.**

### DECISION

**QUISUMBING, J.:**

Before us is an appeal from the decision of the Regional Trial Court of Iloilo City, Branch 28, dated March 28, 1994,<sup>[1]</sup> convicting appellant of the crimes of double frustrated murder and robbery with homicide, in Criminal Case No. 36069, Criminal Case No. 36070 and Criminal Case No. 36071.

Appellant Allan Jarandilla was charged under the following informations:

Criminal Case No. 36069

"That on or about February 10, 1991, in the Municipality of Barotac Viejo, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a cal. .38 revolver (Squire Bingham) taking advantage of the nighttime, with intent to kill and with trachery (sic) and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one Bonifacio Jalandoni inflicting upon the latter gunshot wounds on the vital parts of his body, thereby performing all the acts of execution which would have caused the death of Bonifacio Jalandoni as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered to the said Bonifacio Jalandoni which prevented his death.

CONTRARY TO LAW."<sup>[2]</sup>

Criminal Case No. 36070

"That on or about February 10, 1991, in the Municipality of Btác. Viejo, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a cal. .38 revolver (Squire Bingham) taking advantage of the nighttime, with intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one Nilo Prieto inflicting upon the latter gunshot wounds on the vital parts of his body, thereby performing all the acts of execution which would have caused the death of Nilo Prieto as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered to the said Nilo Prieto which prevented his death.

CONTRARY TO LAW.”<sup>[3]</sup>

Criminal Case No. 36071

“That on or about February 10, 1991, in the Municipality of Btác. Viejo, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a .38 caliber revolver (Squire Bingham), did then and there wilfully, unlawfully and feloniously take, steal and carry away with intent to gain cash money in the amount of TWENTY THOUSAND (P20,000.00) PESOS, Philippine Currency, owned by Peter Paul Aldeguer and to his damage and prejudice in the aforesaid amount of P20,000.00; that on the occasion of said robbery, above-named accused, did then and there wilfully, unlawfully and feloniously attack, assault and shoot Peter Paul Aldeguer hitting and inflicting upon the latter multiple gunshot wounds on the vital parts of his body which caused his death thereafter.

CONTRARY TO LAW.”<sup>[4]</sup>

At arraignment, appellant pleaded not guilty.<sup>[5]</sup>

In the course of trial, the prosecution presented the following witnesses: (1) Nilo Prieto, a victim who testified on the incident in question; (2) Dr. Jessie Uy, who issued a medical certificate describing Prieto’s gunshot wound on the nape, showing that he was shot from behind; (3) Bonifacio Jalandoni, another victim-eyewitness; (4) Dr. Manuel Jarbadan, who examined Jalandoni and stated that he could have been shot from a distance of two to three feet; (5) Dr. Salvador Mallo, who conducted the autopsy on the cadaver of victim Peter Paul Aldeguer, finding that the victim was shot from behind, and (6) Jeane Aldeguer, the mother of Peter Paul Aldeguer, who testified on the expenses her family incurred as a result of the death of her son, and also on the mental anguish she suffered as a result thereof.<sup>[6]</sup>

In turn, the defense presented the following witnesses: (1) Allan Jarandilla, appellant, who denied culpability and attributed the crimes to a certain “Onik” or “Unik”, who allegedly shot all three victims; (2) Police Lieutenant Eugenio B. Malik, Station Commander of PNP-Barotac Viejo, Iloilo, who conducted the investigation of the incident; (3) SPO3 Roldan Agsamam, who corroborated the testimony of Lieutenant Malik and testified that appellant had turned over his service firearm, a .38 caliber revolver, as early as October 8, 1990; (4) NBI Agent Arnaldo S. Bacabac, who testified that the bullets taken from the cadaver of Peter Paul Aldeguer and the jeep of Nilo Prieto were not fired from the service firearm of appellant, as per the NBI ballistics report; (5) Captain Zenaida Sinfuego, a forensic chemist of the PNP Crime Laboratory of Camp Delgado, Iloilo City, who testified that Bonifacio Jalandoni tested positive for powder burns; (6) Ruby Tupaz, Clerk of Court of Barotac, Viejo Municipal Circuit Court; and (7) Maria Bautista, a witness who allegedly saw another person board the jeep ridden by the victims and appellant, in Culasi, Ajuy, Iloilo.<sup>[7]</sup>

From the witnesses’ testimonies and documentary evidence on record, the trial court summarized the facts of the case as follows:

“From the foregoing, it has been established by evidence for the prosecution, as well as that of the defense, that in the evening of February 10, 1991, while a jeep driven by Nilo Prieto, with Peter Paul

Aldeguer, Bonifacio Jalandoni and accused herein Allan Jarandilla, as passengers, was negotiating an uphill portion of the highway, from Ajuy Iloilo, going towards Barotac Viejo, Iloilo, several shots were fired from a gun, causing injuries to Peter Paul Aldeguer, which caused his untimely death, a wound at the nape of Nilo Prieto, and wounds on the chest and left wrist, of Bonifacio Jalandoni, which could have caused their deaths, were it not for timely medical attendance. The only passenger of the jeep, who was not injured, is, accused herein, Allan Jarandilla. As a result of said incident, the money of Peter Paul Aldeguer, which was about P20,000.00 that he won at the cockfight, at Ajuy Iloilo was missing.

Nilo Prieto and Bonifacio Jalandoni, testified, under oath, and pinpointed, to the accused herein, Allan Jarandilla, as their assailant (sic).

Although Nilo Prieto, before, and at the time, of the incident in question, did not know the name of that companion of Bonifacio Jalandoni who rode in his jeep in the evening of February 10, 1991, the said person was introduced to him, and to Peter Paul Aldeguer, as a policeman from Barotac Viejo, Iloilo.

Bonifacio Jalandoni informed the court, that he has known Allan Jarandilla, for a long time, because their respective wives were even together in selling textiles.

According to Bonifacio Jalandoni, when he heard the gunfire, he even looked back, and shouted, at accused Allan Jarandilla, not to shoot at Peter Paul Aldeguer, and, at that moment he saw Allan Jarandilla holding a .38 caliber revolver. Instead of heeding the pleas of Bonifacio Jalandoni, the accused, even shot the former.

The contention of accused Allan Jarandilla, that he did not shoot the aforementioned victims and took the P20,000.00 from the pocket of Peter Paul Aldeguer, is negated by the testimonies of the victims who were able to live to 'tell the tale'.

The actuation of the accused Allan Jarandilla, at the time of the incident, in question, tends to show that he intended to kill Nilo Prieto and Bonifacio Jalandoni, after he has already killed and robbed Peter Paul Aldeguer, in order to eliminate the witnesses to his criminal acts.

The allegations of accused Allan Jarandilla that he could not have possibly shot his victims, because he did not have any firearm at that time of the incident, as he has turned over his .38 caliber service revolver to PO3 Agsamam, before he was transferred to 321st PC Coy, Sara, Iloilo, is not convincing to this court, because he was earlier seen, by Bonifacio Jalandoni and Nilo Prieto, as having a revolver tucked at his waist. Moreover, it is into farfetched, that even after Allan Jarandilla has turned over his .38 caliber service revolver to PO3 Agsamam at Barotac Viejo, Iloilo, as a policeman, he could have easily secured another firearm, from other sources.

The allegations of Allan Jarandilla that he did not take the money from Peter Paul Aldeguer is likewise considered by the Court as not believable. The record will show that the accused Allan Jarandilla, went into hiding before he placed himself under the protective custody of the National Bureau of Investigation (NBI) on February 18, 1991 (Exh. 14') so that it could have been very easy for him to hide the "loot", as well as the gun, which he used in shooting at the aforementioned victims.

Also it is true that Allan Jarandilla did not commit the offenses attributed to him in the aforementioned information, when he placed himself under the protective custody of the National Bureau of Investigation (NBI), he could have informed the National Bureau of Investigation that it was a certain "Unik" who committed the same, as he stated in Exhibit "14", "I will help the National Bureau of Investigation in the investigation into the circumstances surrounding the shooting to death of Peter Paul Aldeguer, in the evening of 10 February 1991 in Brgy. Santiago, Barotac Viejo, Iloilo" considering that when he wrote Exhibit "14", he was assisted by Atty. Jose A. Alegario, as a witness to his submission to protective custody. No such evidence was presented by the defense."<sup>[8]</sup>

After trial, the court rendered its decision convicting appellant of the crimes charged. It decreed as follows:

"WHEREFORE, in view of the foregoing, DECISION is hereby rendered, finding the accused, ALLAN JARANDILLA:

1) In Criminal Case No. 36069, Guilty, beyond reasonable doubt, of the crime of Frustrated Murder, with Bonifacio Jalandoni, as his victim, and hereby Sentences him, to suffer an indeterminate penalty of imprisonment, ranging from FOUR (4) YEARS & TWO (2) MONTHS, prision correccional, as minimum, to TEN (10) YEARS, prision mayor, as maximum, with the accessory penalty provided by law. To indemnify Bonifacio Jalandoni, in the amount of P20,000.00, and to pay the costs;

2) In Criminal Case No. 36070, Guilty, beyond reasonable doubt, of the crime of Frustrated Murder, with Nilo Prieto, as his victim, and hereby Sentences him to suffer an indeterminate penalty of imprisonment, ranging from FOUR (4) YEARS & TWO (2) MONTHS, prision correccional, as minimum, to TEN (10) YEARS, prision mayor, as maximum, with the accessory penalty provided by law, to indemnify Nilo Prieto in the amount of P11,700.00, and to pay the costs;

3) In Criminal Case No. 36071, Guilty, beyond reasonable doubt, of the crime of Robbery with Homicide, with Peter Paul Aldeguer, as his victim, and hereby Sentences him with *reclusion perpetua*, considering that at the time of the commission of the offense charged, the capital penalty, of death, has been abolished by the "Cory" Constitution, and not yet re-imposed by law. The afore-named accused is ordered to indemnify the heirs of the deceased, Peter Paul Aldeguer, in the amounts of P75,000.00, as actual damages, P500,000.00, as indemnity for his life; P500,000.00, as moral damages and P50,000.00, as attorney's fees, and to pay the costs.

Accused, ALLAN JARANDILLA, shall be credited, in full, of the period during which he was detained, in connection with all the above-entitled cases.

The .38 caliber Squire & Bingham revolver, with Serial No. 659991, is hereby ordered to be returned to the PNP of Barotac Viejo, Iloilo, upon the signing by its representative of the corresponding receipt, therefor.

SO ORDERED."<sup>[9]</sup>

Appellant now assigns the following errors:

A. THE TRIAL COURT ERRED IN FINDING THAT ACCUSED-APPELLANT WAS RESPONSIBLE FOR THE SHOOTING OF NILO PRIETO AND BONIFACIO JALANDONI;

B. THE TRIAL COURT ERRED IN HOLDING ACCUSED-APPELLANT SHOT AND ROBBED PETER PAUL ALDEGUER RESULTING TO HIS DEATH AND THEN ROBBED HIM WHEN THIS IS BELIED BY THE PRESENCE OF CASH MONEY FOUND AND RECOVERED FROM THE BODY OF PETER PAUL ALDEGUER;

C. THE TRIAL COURT ERRED IN FINDING THAT THE FIREARM USED IN THE SHOOTING OF PRIETO AND JALANDONI AS WELL AS IN THE KILLING OF ALDEGUER BELONGED TO THE ACCUSED-APPELLANT;

D. THE TRIAL COURT ERRED WAS (sic) NOT ACQUITTING APPELLANT DUE TO REASONABLE DOUBTS.<sup>[10]</sup>

Appellant contends that his motive for committing the crimes was not established. He alleges that the presence of money on the body of Peter Paul Aldeguer, and the non-taking of any valuables from Nilo Prieto and Bonifacio Jalandoni rules out robbery. He also contends that he couldn't have shot any of the victims, as he had turned over his service revolver much earlier than the date of the incident, and the NBI ballistics report on said revolver showed that the slugs taken from Aldeguer and Prieto's jeep were not fired therefrom. It was a certain "Onik," appellant alleges, who later boarded the jeep and shot the victims. He also claims that it is not true that there was no eyewitness to corroborate his testimony and his claim that it was this "Onik" who was responsible for the shootings.

For the State, the Office of the Solicitor General counters by invoking the settled rule that the prosecution need not prove motive on the part of appellant, as the latter had been positively identified as the author of the crime by Nilo Prieto and Bonifacio Jalandoni. The presence of money on the body of Peter Paul Aldeguer also does not negate the imputation of robbery, as prior to the shooting, Aldeguer was carrying more money than was found on his cadaver. The fact that appellant turned over his service firearm also does not preclude his chances of obtaining another one, which he used in the commission of the crimes charged. Lastly, the Solicitor General asserts that appellant's imputation of the crime to one "Onik" is incredible, as there was no proof of the involvement, much less the existence, of such person on the night of the incident.

Based on the foregoing arguments of appellant and of the Solicitor General, we find that the basic issues here involve the credibility of witnesses, and the sufficiency of the evidence presented by the prosecution.

Appellant insists on the need to establish a motive for the crime. As correctly pointed out by the Solicitor General, however, it is well-settled that motive is not necessary when there is a clear and positive identification of the perpetrators of the crime.<sup>[11]</sup> Absence of motive for committing the crime does not preclude conviction therefor where there were reliable witnesses who fully and satisfactorily identified the accused as the perpetrator of the felony.<sup>[12]</sup> In this case, Nilo Prieto and Bonifacio Jalandoni, both victims and eyewitnesses to the incident, categorically testified that it was appellant who shot them and Peter Paul Aldeguer, causing the latter's death.<sup>[13]</sup> Both witnesses showed no apparent ill-motive for testifying