

FIRST DIVISION

[G.R. Nos. 117506-07, January 07, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SALVADOR ALOLOD Y MORADAS, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

SALVADOR ALOLOD Y MORADAS was found guilty by the Regional Trial Court of Kalookan City of Robbery with Homicide under Art. 294, par. 1 of the Revised Penal Code (Crim. Case No. C-39188) and Illegal Possession of Firearm pursuant to P. D. 1866 (Crim. Case No. C-39187). He was sentenced in each case to reclusion perpetua with the accessory penalties provided by law and, in the first case, to indemnify the heirs of the victim in the amount of P50,000.00 for his death, plus P52,010.00 as actual and compensatory damages, and to pay the costs.^[1]

The Information for Robbery with Homicide alleges that on 13 December 1991 in Kalookan City the accused Salvador Alolod y Moradas forcibly took from Romeo de Vera one (1) blue plastic bag containing cash amounting to P17,800.00 and that, on the occasion thereof, inflicted serious physical injuries upon the victim which caused the latter's death.^[2] The Information for Illegal Possession of Firearm charges that on the same occasion the accused had in his possession a .38 cal. paltik revolver marked S & W without serial number, with four (4) live ammunitions, without first securing the necessary license and/or permit to possess the same.^[3]

The evidence for the prosecution shows that in the morning of 13 December 1991 a passenger jeepney driven by one Alberto Juan was cruising along Quirino Highway in front of Amparo Village, Kalookan City, bound for Lagro Subdivision, Quezon City. On board the jeepney were four (4) passengers identified as Jose Robert Caamic, Marcos Nobio, Romeo de Vera and accused Salvador Alolod y Moradas. While inside the vehicle Alolod pushed Caamic and took a seat facing Romeo de Vera. All of a sudden Alolod grabbed the plastic bag which de Vera was holding. The latter resisted. Alolod then pulled out a gun and shot de Vera point-blank. As a result, blood oozed from the body of de Vera. But, despite his wound, he insisted on wrestling with Alolod for the possession of the bag until the latter fired a second shot. As they grappled they fell from the jeepney while passengers Caamic and Nobio jumped off and ran for safety. As Alolod and de Vera continued to struggle, SPOI Eduardo Liberato arrived but Alolod succeeded in running away with the bag. Liberato pursued Alolod until he caught up with him at Palupasi St., Midway Park, Amparo Village. Seized from the accused was a .38 cal. paltik revolver^[4] still smelling of gunpowder, with four (4) live bullets^[5] and two (2) empty shells.^[6] Also found in his possession was a plastic bag containing P17,800.00^[7] in various denominations. According to Liberato, he told Alolod that he committed the crime of robbery hold-up and he replied, Hindi ko dapat na nagawa, hindi ko po sinasadya

'yung pangyayari, nagawa ko yung pangyayari dahil sa wala akong trabaho.[8]

Meanwhile, Romeo de Vera who was brought to the East Avenue Medical Center expired shortly after due to gunshot wound, the bullet lacerating his right lung and right liver. He also sustained two more wounds - an abrasion on the left mammary region and at the "middle 3rd of the left arm." [9]

Accused Alolod presented a different version. He testified that on 13 December 1991 he was on his way to see a certain Josephine Alcantara regarding a business transaction at Tala Barracks II. From Novaliches he boarded a jeep going to his destination but the vehicle broke down so he boarded another jeep. On the way there was a kaguluhan (commotion) at the rear part of the jeep. He saw two (2) men grappling for "something." Scared, he jumped out of the window as soon as the driver stepped on the breaks, while his co-passengers fled in different directions. A male passenger who was holding a gun approached the protagonists and shot one of them. Hearing another shot Alolod became more frightened and followed Caamic and Nobio who ran ahead of him. They entered a house but soon enough his two (2) co-passengers were mauled. The three (3) of them were brought by SPOI Liberato to the police precinct where Caamic and Nobio forced him to admit that he shot the victim, although he denied having done so. Alolod claimed that he asked the police to subject his hands to x-ray examination to determine if he indeed fired a shot, but his request was not granted. [10]

After trial, the court a quo found the accused guilty as charged. He now comes to us on appeal contending that the trial court erred: (a) in convicting him on the basis of testimonies which were ostensibly concocted; (b) in upholding the theory of the prosecution which resulted from a bungled police investigation; and, (c) in appreciating evidence for the prosecution that were manifestly "fruits of the poisonous tree."

Appellant cited several instances of inconsistencies in the testimonies of prosecution witnesses. First, Caamic claimed that the accused shot the victim with a gun hidden inside a bag, while Nobio testified that the accused and the victim were grappling over the blue plastic bag with both hands. Second, Caamic and Nobio sharply varied on when and how the first shot was fired: according to Caamic, the accused fired the first shot while seated across the victim, while Nobio testified that the first shot came when the accused and the victim were grappling for the plastic bag on the floor of the jeepney. Third, Caamic claimed that when the second shot was fired he was already an arm's length from the jeepney, while Nobio was still seated at the front seat of the vehicle. Nobio on the other hand testified that he was twenty-four (24) yards away from the jeepney when the second shot was fired. Fourth, Caamic claimed to have heard two (2) additional shots while running away from the crime scene, although only two (2) spent shells were recovered from the gun of the accused. Fifth, SPOI Liberato's testimony was flawed. On direct examination, he claimed it was the accused who was wrestling with the victim. However, on cross-examination, he backtracked saying that he was not sure that it was the accused as he was not able to get near the protagonists. Sixth, Caamic testified that blood oozed from the body of the victim as a result of the first shot, yet, Liberato for all his experience as a policeman did not see that the victim was already bleeding. [11]

After a careful assessment of the evidence, we hold that the inconsistencies alleged

by the accused are more apparent than real, and that there is no compelling reason to disturb the findings of the trial court in this regard. Witnesses Caamic and Nobio were consistent in their claim that the accused grabbed the blue plastic bag from de Vera and that they wrestled with each other until Alolod shot the victim twice because the latter would not yield the bag to him. The inconsistencies if at all are not on material points because they only refer to slight variations in the time and relative positions of the parties when the gun was fired. Recollection of different witnesses with respect to time, place and other circumstances of a criminal event would naturally differ in various details.^[12] Not all persons who witness an incident are impressed in the same manner and it is but natural that in relating their impressions, they disagree on the minor details and that there be contradictions in their testimonies.^[13] Witnesses cannot be expected to recollect with exactitude every minute detail of an event. This is especially true when the witnesses testify as to facts which transpired in rapid succession, attended by flurry and excitement. The testimony of each witness should not be expected to be identical to and coinciding with each other. It is enough that the principal points covered by their testimonies are established although they do not dovetail in all details - which would even prove well-rehearsed and studied declarations.^[14] If witnesses should agree as to every detail of a transaction which occupied a considerable space of time, and should undertake to tell all that occurred in precisely the same order, each giving the same incident as the other in precisely the same words, that fact would be of itself a suspicious circumstance.^[15]

The fact that Liberato failed to state that he saw the face of accused-appellant does not render his testimony less credible.^[16] It was difficult for the policeman to see the faces of the men engaged in the squabble from an initial distance of eighty (80) meters. It must be noted however that when Alolod ran away from the scene leaving behind the victim prostrate on the ground, Liberato chased him until the latter was apprehended. The incident happened in broad daylight so that it was easy to note the general appearance of the accused, the color of his clothes, and the fact that he was the person who stopped fighting with the victim and stood up to flee and elude arrest. When finally apprehended he was holding a handgun which was still smelling of gunpowder. He also had the blue plastic bag with the money.

The defense also highlighted the testimony of Caamic that Alolod was grappling for possession of the bag with both hands so that it was impossible for him to hold and fire a gun. Such impossibility is inconclusive for it is highly probable that the accused initially grappled with his hands and then, realizing that de Vera would not part with the bag, pulled out his gun to shoot the victim.

The testimonies of Caamic and Nobio are not rendered false or concocted by the mere fact that Liberato did not say that he saw de Vera bleeding from his wound. Both witnesses saw the fight at close range. SPOI Liberato arrived only later. As a police officer, it was only normal that he would concern himself with the immediate apprehension of the suspected criminal who was running away from the scene of the crime, considering that there were private citizens around who would render succor to the wounded de Vera.

The testimony of Caamic that he heard two (2) additional gunshots while running away from the incident does not necessarily deviate from his main assertion that he initially heard two (2) shots. On direct examination he testified thus