

THIRD DIVISION

[G.R. No. 123404, February 26, 1997]

**AURELIO SUMALPONG, PETITIONER, VS. COURT OF APPEALS,
AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

FRANCISCO, J.:

The petitioner AURELIO SUMALPONG was charged with the crime of attempted homicide allegedly committed as follows:

"That on or about August 6, 1982, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a .38 caliber revolver and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shot (sic) one Arsolo Ramos, thus the said accused having commenced the commission of Homicide directly by overt acts and did not perform all acts of execution which should have produced the felony by reason of some cause or accident other than his own spontaneous desistance."^[1]

After the petitioner pleaded not guilty on arraignment, trial on the merits followed. The prosecution presented the complainant Arsolo Ramos, and his wife, Leonarda who both testified to the following facts: At around 10:00 o'clock in the evening of August 6, 1992, while complainant and his wife were on their way home from their ricefield in the interior, they saw the petitioner standing by the road beside a house under construction. When they came near him, the petitioner inquired from Leonarda if she knew the identity of the persons who had stoned his house, and when the latter denied any knowledge thereof, the petitioner told her that the people from the interior were abusive. To that comment Leonarda retorted that the petitioner should first identify the persons responsible for stoning his house, otherwise, she will bring the matter to the attention of the Barangay Captain.^[2] Angered by Leonarda's reply, the petitioner asked, "why are you angry, are you the wife of that person?"^[3], and simultaneously slapped Leonarda's face causing the latter to fall to the ground. While Leonarda was on her hands and knees, the petitioner drew his gun and shot her at the back of her head. The complainant then rushed towards the petitioner who shot him twice but missed. The petitioner and the complainant grappled for the possession of the gun and fell into a nearby canal. In the course of the struggle, the petitioner bit the complainant's right forearm and left ear thereby causing a mutilation of the latter.^[4]

The foregoing was corroborated by another witness for the prosecution, Francisco Manugas, who happened to be in a nearby waiting shed when the incident occurred. Manugas testified that he was resting and talking to one Alberto Vilasan in the waiting shed when he saw the petitioner station himself by an electric post while the complainant and Leonarda were nearing the vicinity of the latter. According to Manugas, the petitioner approached Leonarda and shortly thereafter, he saw the

former slap the latter's left cheek causing her to stagger. Manugas then saw the petitioner shoot Leonarda prompting the complainant to rush to her aid. The petitioner aimed his gun at the complainant and fired twice but missed. A scuffle between the petitioner and the complainant ensued, and it was at this juncture that Manugas and Vilasan approached Leonarda who was then lying on the ground. Their efforts to help Leonarda were thwarted by two unknown persons, both armed with guns, who appeared from the dark and ordered them not to move. Threatened, Manugas and Vilasan retreated and ran away. They went to the Barangay Captain to report the incident to him, and the latter immediately responded by going to the scene of the crime.^[5]

On the other hand, the defense would have us believe that it was the complainant who had a gun which he intended to use against the petitioner after the latter's heated altercation with Leonarda. The defense's version of the incident relied heavily on the testimony of the petitioner, the substance of which was succinctly summarized in the trial court's decision as follows:

"According to him (petitioner), on August 6, 1992, at around 6:00 P.M. he went to the upper part of the place where his house is located to inquire from the four housing contractors who were in the carport of a vacant housing unit if they have any knowledge of the identity of the persons who stoned his house and was informed that some drunken youths from the interior would pass by and throw stones. He then noticed a couple approaching from a distance and one of the contractors called the couple, whom he identified as the complainant and his wife, and the two approached them. He then asked the complainant if he knows the youths throwing stones at his house but was told by the complainant that he does not. He then asked the complainant that if he knows these youths to advise them not to throw stones. However, he was told that he could not catch these youths in the act of throwing stones as they would be in the upper level of the place. He then retorted that 'perhaps you know these people by the way you talk' and the wife of the complainant intervened saying 'you better identify these people before you make any accusation or I'll go to the barangay captain.' Their discussion became heated and the four contractors went inside the house. He was then threatened by the complainant to leave, otherwise something would happen to him with the complainant further telling him that he has a gun inside his bag and he is not afraid since he even had a fight a month before. He did not leave and their discussion continued and the complainant then got a gun inside his bag. The accused then took hold of the hand of Leonarda Ramos and using her as a shield brought her to the road. The complainant followed and grabbed his wife and the accused then grabbed the hand of the complainant holding the gun and the gun fired. He pushed the wife aside and they grappled with each other with his right hand holding the right hand of the complainant holding the gun and with his left arm encircling the neck of the complainant. He was bitten by the complainant on the left arm and he also bit the left ear and the right forearm of the complainant. While they were grappling with each other, the gun fired four times and when they fell with the complainant underneath him, he noticed someone whom he came to know as the wife of the complainant kicking him on the head several times. Later, someone whom he identified as Rogelio Omiter separated them and brought him home. x x x"^[6]

In an attempt to lend some degree of persuasiveness to the petitioner's story, Rogelio Omiter was presented as a witness for the defense. Rogelio testified that on

the said date and time of the incident, he was at his house when he heard a discussion taking place some ten meters away. He listened to the conversation and was able to identify one of the voices as that of the petitioner's. Suddenly, he heard a gunshot which propelled him to run towards the place where the voices were coming from. While running, he again heard successive gunshots. From a distance he could see the petitioner and the complainant wrestling with each other. He then approached and tried to separate the two from each other's hold, and while doing so, he observed that Leonarda was repeatedly kicking the petitioner's head.^[7]

According full faith and credence to the testimonies of the prosecution witnesses, the trial court rendered a decision convicting the petitioner of the crime of attempted homicide and sentenced him to suffer the penalty of imprisonment from six (6) months and one (1) day of arresto mayor as minimum to two (2) years, four (4) months and one (1) day of prision correccional as maximum. The petitioner was likewise ordered to indemnify the complainant in the amount of: (a) P16,800.00 for the loss of his crops due to his failure to attend to his farmwork because of the injuries inflicted upon him by the petitioner; (b) P2,000.00 for hospitalization expenses; and (c) P5,000.00 by way of moral damages.^[8] The petitioner's conviction was affirmed on appeal to the Court of Appeals which, however, modified the award of damages to the complainant, deleting the awards for loss of crops and hospitalization expenses, increasing the moral damages to P10,000.00, and awarding nominal damages in the same amount.

Before this Court is the petitioner's appeal where he endeavors to weaken the complainant's credibility by pointing out an alleged inconsistency between the latter's sworn statement and his testimony in open court. The petitioner contends that a material discrepancy exists between the complainant's sworn statement that the petitioner fired at him first before shooting Leonarda, and his oral testimony that the petitioner shot his wife, Leonarda, before firing at him twice.

Time and again this Court has held that inconsistencies in the testimony of witnesses when referring only to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony. Such inconsistencies reinforce rather than weaken their credibility and suggest that they are telling the truth.^[9] The aforesaid rule finds application to the case at bench for the matter of who was shot first by the petitioner is clearly insignificant and does not change the established fact that the petitioner had indeed fired at both the complainant and the latter's wife. Although there may be inconsistencies on minor details, the same do not impair the credibility of the witness where there is consistency in relating the principal occurrence and positive identification of the assailant.^[10]

Furthermore, a contradiction between a witness' affidavit and his testimony in open court may almost always be explained by the fact that being taken ex parte, an affidavit is often incomplete and inaccurate, sometimes from partial suggestions, and sometimes from the want of suggestions and inquiries. An affidavit is not a complete reproduction of what the declarant has in mind because it is generally prepared by the administering officer and the affiant simply signs it after it has been read to him.^[11] The same is especially true when after having prepared the affidavit, the administering officer fails to translate the statements contained therein in the vernacular for the full comprehension of the affiant who is not well versed in