

FIRST DIVISION

[G.R. No. 211691, April 28, 2021]

**LETLET CARPIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

D E C I S I O N

ZALAMEDA, J.:

Discharge of a firearm, even without a casualty and intention to kill, is a punishable act under our penal laws. The existence of the bullet hole, or the damage created by illegal firing of a gun, is not an essential element necessary for prosecution and conviction.

The Case

This Petition for Review on *Certiorari*^[1] assails the Decision^[2] dated 19 August 2013 of the Court of Appeals (CA) in CA-G.R. CR No. 00891, which affirmed the conviction of Letlet Carpio (petitioner) for illegal discharge of firearm.

Antecedents

On 27 September 2007, petitioner and her sister Abadieza Gabelino^[3] (Gabelino) were charged with illegal discharge of firearm under Article 254 of the Revised Penal Code (RPC), allegedly committed as follows:

That on or about 28 February 2007, in Davao City, Philippines, and within this Honorable Court's jurisdiction, Accused Letlet Carpio a.k.a. Mary Rose L. Carpio, without any intent to kill, armed with a firearm, and in conspiracy with and upon her co-accused Gabelino's instructions, willfully and feloniously, aimed the firearm to and shot private complainant REBECCA VENCIO-CLARION, to the private complainant's prejudice and other consequential damages.

CONTRARY TO LAW.^[4]

When arraigned, both petitioner and Gabelino pleaded not guilty to the charge and immediately posted bail.^[5]

Evidence for the Prosecution

Petitioner, Clarion and Gabelino were neighbors in Batulos, Bangkas Heights, Toril, Davao City. On 28 February 2007, petitioner passed by Clarion's house and uttered some demeaning words against the latter's mother who was then tending her store. When petitioner passed by once again, Clarion confronted her. Enraged, petitioner went straight to Gabelino's house to get a gun. Gabelino then urged petitioner to shoot Clarion and said, "*Barila, Barila*" (*Shoot her, shoot her*). Petitioner eventually fired the gun but missed Clarion, who immediately dropped to the ground. She

attempted to fire the gun anew but failed. Some people then intervened, thereafter petitioner and Gabelino scampered away towards the latter's house.^[6]

Meanwhile, Estrella Fuentes (Fuentes) testified that her grandchild was playing near Clarion's house at the time of the incident. After hearing the gun shot, she ran towards Clarion's house where she saw petitioner pointing a gun at Clarion who was, by then, on the ground. Fuentes then rushed back to her house and called 911.^[7]

Evidence for the Defense

The defense offered the testimonies of petitioner, Gabelino and Leticia Las (Las). Petitioner insisted that neither she own nor know how to use a gun.^[8] According to her, at the time of the incident, she was tending to her mother's stall at the public market. After closing at around 9:00 p.m., petitioner went to her mother's house to remit their income and have dinner. By 10:00 p.m., she finally arrived home.

Las testified that she saw petitioner at the market tending to her stall and corroborated petitioner's story that she went to her mother's house to have dinner.^[9] Meanwhile, Gabelino testified that she was roused from her sleep due to a loud noise. When she looked outside, she saw Clarion and her sons throwing stones at her roof. The police then came and brought her and Clarion to the police station where the police suggested that she file charges against the latter.^[10]

Ruling of the MTCC

The MTCC, in its Decision^[11] dated 15 September 2009, found petitioner and Gabelino guilty beyond reasonable doubt of the charge of illegal discharge of firearm, and sentenced them to suffer the indeterminate penalty of three (3) months and eleven (11) days of *arresto mayor* as minimum to two (2) years, eleven (11) months and ten (10) days of *prision correccional* as maximum and to pay the costs.^[12]

It gave more credit to Fuentes' testimony corroborating the prosecution's allegations. Although the defense also presented a supporting witness, it found that Las could have easily been distracted at the time of the incident since she was also tending and preparing to close her stall at the Toril Public Market.^[13]

Ruling of the RTC

The RTC affirmed petitioner's conviction but acquitted Gabelino for the prosecution's failure to prove her guilt beyond reasonable doubt.^[14] Thus, petitioner filed a petition for review with the CA.

Ruling of the CA

On appeal, the CA affirmed *in toto* the RTC's findings.^[15] It found that the prosecution was able to establish the elements of the crime charged. Despite petitioner's attempt to cast doubt on Fuentes' testimony, the appellate court found that her testimony amply corroborated Clarion's statement that petitioner fired her gun at her. It also agreed with the MTCC and RTC that petitioner has not established that it was impossible for her to be at the place of the crime since the public market was located within its vicinity.

Hence, this petition where petitioner harps on the supposed inconsistencies in the testimonies of the prosecution's witnesses. Petitioner argues that Clarion never testified seeing Fuentes at the scene. She also contends that if indeed Clarion was telling the truth that petitioner immediately ran to Gabelino's house after the incident, it would have been impossible for Fuentes to have seen her aiming her gun at Clarion. Petitioner points to the fact that Fuentes testified that she reached the house of the Clarion's after five (5) minutes from the time she heard the gunshot.
[16]

Petitioner also argues that if indeed she fired a gun at Clarion, there would have been holes at the wall of her house or her window.^[17] Finally, petitioner highlights Clarion's testimony that both of the accused hid at Gabelino's house after the shooting, contrary to what was proven during the trial that Gabelino did not hide, but instead, actually boarded the police automobile voluntarily.^[18]

Issue

The sole issue in this case is whether or not the CA correctly affirmed petitioner's conviction for illegal discharge of firearm.

Ruling of the Court

We deny the petition for lack of merit.

We find no reason to reverse the factual findings of the RTC and CA. It is settled that the factual findings of the trial court, when affirmed by the appellate court, are entitled to great weight and respect. Particularly, the evaluation of witnesses' credibility is "best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial."^[19]

Although jurisprudence has recognized several exceptions to the rule that the findings of fact of the CA affirming those of the trial court are generally not subject to review by the Supreme Court, including: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when there is grave abuse of discretion; (3) when the judgment is based on a misapprehension of facts; (4) when the findings are contrary to those of the trial court; (5) when the findings of facts are conflicting; and (6) when the findings are conclusions without citation of specific evidence on which they are based, none of these are present in this appeal.^[20]

As found by the RTC and CA, the prosecution was able to establish the crime beyond reasonable doubt. Under the Revised Penal Code, the elements of illegal discharge of firearm are: (1) that the offender discharges a firearm against or at another person; and (2) that the offender has no intention to kill that person.^[21]

In this case, this Court is convinced that Clarion and Fuentes sufficiently established that petitioner fired her gun at Clarion. This Court cannot give credit to petitioner's insistence that Fuentes could not have witnessed the crime since she arrived five (5) minutes from the time of the gunshot. Indeed, as found by the CA, Fuentes merely estimated the time it took her to run from her residence to Clarion's house. In any case, the trustworthiness of Fuentes' testimony is apparent from her testimony, viz:

Q: Madam witness, how far was your house from the house [of] the private complainant Rebecca Clarion?