

SECOND DIVISION

[G.R. No. 178272, March 14, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODRIGO
SALCEDO ALIAS "DIGOL," APPELLANT.**

D E C I S I O N

PERALTA, J.:

This is an appeal from the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00113, affirming with modifications the judgment of the Regional Trial Court (RTC) of San Miguel, Jordan, Guimaras in Criminal Case No. 0122 finding appellant Rodrigo Salcedo alias *Digol* guilty beyond reasonable doubt of the crime of Murder.

The Information against the appellant reads as follows:

That on or about the 6th day of November 1994, in the Municipality of Jordan, Province of Guimaras, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with evident premeditation and treachery and with intent to kill, taking advantage of his superior strength and the darkness of the night, did then and there willfully, unlawfully and feloniously attack, assault, and stab with a knife one Analyn Elevencione, who is pregnant at the time, hitting said Analyn Elevencione at the vital parts of her body which caused her instantaneous death.

CONTRARY TO LAW.^[2]

Appellant was arraigned on March 22, 1995^[3] and pleaded not guilty to the crime charged. Trial on the merits thereafter ensued.

The evidence of the prosecution follows:

Geraldino Galido (Geraldino) testified that at 9 o'clock in the evening of November 6, 1994, while he was in his house together with his two brothers, his brother-in-law and second cousin, they heard three (3) shouts for help coming from the house of Efren Galido (Efren). They immediately went to the place and at the distance of about 7 to 8 meters,^[4] he saw appellant stabbed the victim Analyn twice while she was lying on her back. He was able to identify the appellant because of the torch being carried by the women near him.

Efren, live-in partner of Analyn, testified that appellant is known as "Digol" in their place. At 9 o'clock in the evening of November 6, 1994, he was at the house of his

elder brother Geraldino, which is about 100 meters away from his house. While at the house of his brother, he heard a shout coming from his niece, Ivy Jean Borra. Upon hearing Ivy, he immediately ran home. When he arrived home, he saw his son sleeping, so he went downstairs and proceeded to the road where he met his sister-in-law holding a torch. He got a torch from his sister-in-law, went ahead and looked for Analyn. He found Analyn lying and moaning on the grassy portion of the side of the road about 20 meters away from their house. He lifted Analyn and saw blood coming from her breast. He asked Analyn who did it to her and Analyn answered, "Digol." He placed Analyn on the ground and tried to run after the person who did it to her, but he was restrained by his brother.

Dr. Edgardo Jabasa testified that he conducted an autopsy on the body of Analyn. He found nine (9) stab wounds in the body of Analyn. Two of the stab wounds penetrated the heart, making it impossible for the victim to survive. He also testified that Analyn's uterus was enlarged at 6 to 7 months gestation with a dead male fetus. He further testified that the wounds appear to have been inflicted by a single sharp bladed and pointed instrument.

Upon the other hand, the defense adduced the testimonies of the appellant, Felimon Salcedo, Marcelina Lecta and Mario Manatoc. Appellant's main defense is alibi.

Felimon Salcedo, father of the appellant, testified that in the evening of November 6, 1994, before going home, he was at the house of his daughter, Marcelina Lecta. While there, appellant arrived and when Felimon left Marcelina's house at around 8:30 o'clock in the evening, appellant was still there.

Marcelina Lecta testified that the appellant is her younger brother. She said that at around 8 o'clock in the evening of November 6, 1994, appellant arrived at their house and slept there. Appellant then left the following morning and reported for work at the highway. At around 9 o'clock in the morning, the policemen arrived at their house looking for the appellant. Thereafter, she learned that appellant was arrested when he reported for work.

Mario Manatoc testified that he was a detainee at the Municipal Jail of Jordan. At around 2 o'clock in the morning of November 7, 1994, Efren arrived at the police station to report the killing of his wife. Investigator George Galon then interviewed Efren. After the interview, the police officers left the police station to look for the person who killed Analyn. At 10 o'clock in the morning of the same day, Police Officer George Galon arrived with the appellant and brought the latter to the investigation room. During the investigation, he heard moaning and thudding sounds. Mario said that appellant was mauled and was made to admit the killing of Analyn.

Appellant testified that in the afternoon of November 6, 1994, he was invited by the group of Efren, Geraldino, Ludrito, Pablo, Virgilio and Luis to drink, so they all proceeded to the house of Botchoy Galia located at *Barangay* Alaguisoc. They arrived there at 5 o'clock in the afternoon and they finished drinking four bottles of whisky at around 7 o'clock in the evening. After drinking, they all went home going their separate ways. Appellant went to the house of his sister, Marcelina Lecta, which is one (1) kilometer away from the house of Botchoy. He arrived at his sister's house at about 8 o'clock in the evening where he met his father. He immediately went upstairs to sleep. He woke up at 6 o'clock in the morning the

following day and went home to his father's house where he learned that Analyn died. He reported to work and was arrested by the policemen. At the police station he was mauled and was threatened to be killed if he will not admit killing Analyn. He was then forced to admit that he killed Analyn.

On August 18, 2000, the RTC of San Miguel, Jordan, Guimaras rendered a Decision^[5] finding appellant guilty beyond reasonable doubt of the crime of murder. The dispositive portion of the Decision is as follows:

WHEREFORE, premises considered, judgment is rendered finding the accused RODRIGO SALCEDO alias "DIGOL" GUILTY beyond reasonable doubt of the crime of MURDER, defined and penalized under Article 248 of the Revised Penal Code. Said accused is penalized to suffer a penalty of imprisonment of twenty (20) years and one (1) day to forty (40) years of *Reclusion Perpetua*, together with all accessory penalties attached thereto.

Said accused is directed to pay the heirs of Analyn Elevencione the amount of:

PhP50,000.00 - for the death of Analyn Elevencione;
PhP10,000.00 - as reimbursement for burial expenses;
PhP40,000.00 - as moral damages;
or a total of PhP100,000.00.

The detention of the accused during the pendency of the case shall be credited in his favor.

SO ORDERED.

Appellant filed a Notice of Appeal and the case was elevated to this Court for review. However, pursuant to this Court's ruling in *People v. Mateo*,^[6] the case was transferred to the CA. The CA rendered a Decision dated November 30, 2006 affirming with modification the decision of the RTC in Criminal Case No. 0122. The CA ruled that the appellant is guilty of murder qualified by abuse of superior strength. The CA did not appreciate the other aggravating circumstances alleged in the information for failure of the prosecution to establish them during the trial. The CA deleted the award of burial expenses amounting to PhP10,000.00 for failure of the prosecution to present receipts in support thereof. Further, the award of moral damages was increased from PhP40,000.00 to PhP50,000.00 and exemplary damages in the amount of PhP25,000.00 was also awarded, both in consonance with existing jurisprudence.

On January 3, 2007, appellant, through the Public Attorney's Office (PAO), appealed the Decision of the CA to this Court. Appellant had assigned two (2) errors in his appeal initially passed upon by the CA, to wit:

THE COURT A *QUO* ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONIES OF EFREN GALIDO AND GERALDINO GALIDO.

II

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF MURDER HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In the main, appellant put in issue the credibility of Efren and Geraldino. He contends that the testimonies of said witnesses did not establish his guilt for murder.

The Court affirms the appellant's conviction. There is no cogent reason to disturb the finding of guilt made by the RTC and affirmed by the CA anent the credibility of the prosecution witnesses who testified during the trial of the case. The Court gives great weight to the trial court's evaluation of the testimony of a witness, because it had the opportunity to observe the facial expression, gesture, and tone of voice of a witness while testifying, thus, making it in a better position to determine whether a witness is lying or telling the truth.^[7]

Geraldino's testimony was categorical, convincing and unequivocal. He positively identified the appellant as the author of the crime. This witness declared, thus:

Public Prosecutor Rolando Nielo:

Q. While you were there in your house, did you hear anything unusual?

A. Yes, sir.

Q. What was that, that came to your attention?

A. I heard three (3) shouts.

Q. What was the nature of that shout that you heard?

A. Three (3) shouts for help.

Q. What did you do when you heard those shouts for help?

A. We jumped out of our house and went to the place where the shouts came from.

Q. Where did the shout came (sic) from, if you know?

A. At the house of Efren Galido.

Q. How far is this house of Efren Galido from your own house?

A. About 100 meters.^[8]

x x x x

Q. Were you able to reach the place where those shouts came from?

A. Yes, sir.

Q. What did you witness or what did you see when you reached the place where the shouts came from?

A. I have seen Digol Salcedo stabbing Analyn Elevencione.^[9]

x x x x

Q. How did you happen to see Rodrigo Salcedo stabbed Analyn Elevencione since it was already 9:00 o'clock in the evening of June 4, 1994?^[10]

A. Because the women from our house were carrying torch and I was following them that is why I saw Analyn Elevencione.

Q. You were able to know Analyn Elevencione and Rodrigo Salcedo from that light coming from that torch?

A. Yes, sir.^[11]

x x x x

Q. And you said you saw Analyn Elevencione stabbed by Rodrigo Salcedo. How many times [did] you saw (sic) this Rodrigo Salcedo stabbed Analyn Elevencione?

A. Only twice.

Q. What was the position of Analyn Elevencione when you saw her being stabbed by the accused?

A. She was lying on her back.^[12]

x x x x

Geraldino on cross examination by Atty. Padilla.

Q. How about you? When you saw the accused stabbed Analyn Elevencione, how far were you from Analyn Elevencione and the accused.

A. About 7 to 8 meters.^[13]

Clearly, Geraldino positively identified the appellant as the author of the crime. He testified that with the aid of the light cast by the torch carried by the women near him, he was able to see the appellant stab Analyn twice while she was lying on her back. Thus, even if the crime was committed during the night, it was not totally dark, as a torch illuminated the place where Analyn was stabbed by the appellant. The Court has consistently held that the illumination produced by a kerosene lamp, a flashlight, a wick lamp, moonlight, or starlight in proper situations is considered sufficient to allow the identification of persons.^[14]

Appellant's allegation that there were inconsistencies in the testimony of the prosecution witnesses, as Geraldino could not have seen the appellant stabbing Analyn because his brother Efren said in his testimony that Analyn was alone when he saw her lying on the ground.^[15]