

SECOND DIVISION

[G.R. No. 178543, September 04, 2009]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARISTO VILLANUEVA, APPELLANT.

DECISION

CARPIO MORALES, J.:

From the March 30, 2007 Decision of the Court of Appeals affirming the February 4, 2004 Decision of the Regional Trial Court of Urdaneta City (Branch 46) finding him guilty of murder, Aristo Villanueva (appellant) lodged the present appeal.

Via Information of March 20, 2002, appellant, together with one Rodrigo Malong (Malong) who is still at large, was charged as follows:

That on or about 7:00 o' clock [*sic*] in the morning of October 17, 2001 at Brgy. San Juan, San Manuel, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, armed and with the use of unlicensed firearms, with intent to kill, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously shoot JANAIRO MAGCALAS inflicting upon him multiple gunshot wounds which caused his death, to the damage and prejudice of his heirs.

CONTRARY to Art. 248, Revised Penal Code as amended by R.A. No. 7659 in relation to R.A. [No.] 8294.^[1]

From the testimonies of prosecution witnesses Marina Magcalas (Marina), Mercedita Capua (Mercedita), Dr. Asuncion Tuvera, SPO3 Danilo Pascua (SPO3 Pascua) of the San Manuel, Pangasinan Police Station and PO3 Julius Ceasar Manocdoc, the following version is gathered:

At 7:00 a.m. of October 17, 2001, while Janairo Magcalas (the victim) and his wife Marina were in front of their house in Barangay San Juan, San Manuel waiting for a tricycle that would bring them to Urdaneta City,^[2] and the victim's mother Mercedita was sweeping in the vicinity about three (3) meters away from the couple,^[3] appellant, who was on board a motorcycle in tandem with Malong, arrived and at once drew his caliber .45 gun and shot the victim. Malong, who was also armed with a gun, also shot the victim. The assailants then pointed their guns at Marina and again fired at the already sprawled victim.^[4]

The autopsy of the victim who was pronounced dead on arrival^[5] at the hospital showed that he sustained five gunshot wounds, three of which were located at entry

points at his back and two at exit points at the abdomen area.^[6]

On arrival at the crime scene, when SPO3 Pascua asked Mercedita if she recognized the assailant, she replied "no, sir . . . [he] had [a] companion [on board] a Honda TMX." When he propounded the same question to Marina, she too said she did not.^[7]

More than three months *after* the shooting or on January 31, 2002, Marina and Mercedita executed their respective sworn statements before the Criminal Investigation and Detection Group's Urdaneta City Sub-Office^[8] naming appellant and Malong as the malefactors. To Marina, appellant and Malong were regular patrons at her *balut* stand.^[9] To Mercedes, appellant was the one who usually fetched the victim from their house whenever the latter would go somewhere.^[10]

Upon the other hand, appellant, who denied being acquainted with Marina and Mercedita as well as with the victim, invoked alibi, claiming that he was on the day of the incident, October 17, 2001, in Cahil, Diffun, Quirino helping his uncle at the farm; that he left Quirino for San Manuel on December 18, 2001 and was arrested and detained by the San Manuel police the next day^[11] in connection with the killing of a certain Saribay; that while on detention or in the second week of January 2002 Marina visited him;^[12] and that he was released from detention in April 2002 following the dismissal of the case against him in connection with the killing of Saribay.

Brushing aside appellant's alibi, the trial court, by Decision^[13] of February 4, 2004, convicted him, disposing as follows:

WHEREFORE, premises considered, the accused ARISTO "ARIS" VILLANUEVA is found GUILTY beyond reasonable doubt of murder of JANARIO MAGCALAS. He is hereby sentenced to suffer the penalty of Reclusion Perpetua and ordered to pay the heirs of Janario Magcalas (a)P12,990.00 in actual damages; (b) P50,000.00 death indemnity; and (c) P50,000.00 in moral damages.

x x x x

SO ORDERED.

In convicting appellant, the trial court noted that

[t]he prosecution witnesses were consistent in relating the principal occurrence and positive identification of the victim's assailants. The **alleged inconsistencies, notwithstanding**, the fact remains that they both categorically identified Villanueva as Janario's assailant. In view of their presence at the time of the incident and their unobstructed view of what transpired, undoubtedly, their eyewitness account must be given credit. (Emphasis and underscoring supplied)

The trial court ruled out the presence of the aggravating circumstance of use of unlicensed firearm, however, the same not having been established by the prosecution.

On appellant's appeal before this Court, the case was, pursuant to *People v. Mateo*, [14] referred to the Court of Appeals for disposition.[15]

The Court of Appeals, by Decision[16] of March 30, 2007, affirmed with modification appellant's conviction by awarding exemplary damages in the amount of P25,000 due to the presence of the aggravating circumstance of treachery.

In the present appeal, appellant maintains that the prosecution failed to discharge its primary burden by overwhelming evidence. Citing *People v. Contega*,[17] he contends that "the rule that alibi must be satisfactorily proved was never intended to change the burden of proof in criminal cases; otherwise, we w[ould] see the absurdity of an accused being out in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."

For its part, the Office of the Solicitor General maintains that the testimonies of the relatives of the victim bear the badges of truth as they "have [the] natural knack for remembering the faces of the attackers and they, more than anybody else, would be concerned with vindicating the crime by having the felons brought before the bar of justice." Furthermore, the Solicitor General posits, there is nothing in the record to indicate that Marina and Mercedita were impelled by improper motive to testify against appellant.[18]

The appeal is impressed with merit.

Delay in reporting a crime or identifying the malefactor does not affect the credibility of the witnesses *for as long as the same is sufficiently explained*.[19]

In the present case, the Court entertains doubts on the identification, more than three (3) months after the incident, by prosecution witnesses Marina and Mercedita, of appellant as one of two men who fatally shot the victim. Nothing on record sufficiently explains why Marina and Mercedita, who claimed to be familiar with appellant, failed to immediately name him as one of the assailants when SPO3 Pascua inquired from them if they recognized the "assailant."

Marina, in fact even went to the Balungao District Jail, in the company of a certain Nel Ramos, a week after her husband's death in October 2001 purportedly to identify appellant, then on detention there, as one of the assailants. But despite that, she did not inform the police of appellant's involvement in her husband's killing, until after more than three months.

Consider Marina's following account, quoted *verbatim*, surrounding the delay.

Q After you claimed that you have seen Aris Villanueva shot your husband three (3) times. Where is the next time you have seen him?

A I did not see him sir.

Q In other words the next time you saw Aris Villanueva when he was **already in Court**, right?

A Yes sir.

Q Is it not true that you went to the District Jail of Balungao to see Aris Villanueva?

A **No sir.**

Q And in fact you are even in the company of Ombudsman Narciso Ramos?

ATTY. IGNACIO:

We would like to put on the record that she (witness) hardly answer the question for a yes or no. She hard times to answer the question, your Honor.

WITNESS:

A **Yes sir.**

Q **And you have seen Aris Villanueva the jail in Balungao?**

A **Yes sir.**

Q **And somebody pointed to you, right?**

A **Yes sir.**

Q If you love your husband why did it take you four (4) months from October 17 to report/identify the assailant. Why did it take you for some time?

A **Because I newly gave birth that time and we are poor, sir.**

Q **When did you give birth?**

A **December sir.**

Q You mean to say from October to December, two (2) months, and yet you did not tell to the Police that you recognized Aris Villanueva, right?

A Somebody helped us which is why I was given the nerve to report the matter, sir.

Q Why you have no nerve?

A Because we are threatened sir.

Q Who threatened you?

A There were times gunshot and motorcycle used to stop in front of our house, sir.

x x x x

Q **Even after you gave birth to your child on December, it still take you for two (2) months to report to the CIDG, San Fernando, La Union?**

A **Yes sir.**

Q **Why San Fernando, La Union and not San Manuel Police?**

A **Because we reported to the San Manuel Police and nothing happened, sir.**

Q When was that when you reported in San Manuel Police?

A At the time when my husband died, sir.

Q Did you tell the Police of San Manuel that Aris Villanueva and Rodrigo Malong who shot your husband?

A **Yes sir.**

Q **Who was that policeman whom you reported?**

A **Policeman Pascua sir.**

Q Was it the other way Pascua whom you reported?

A I don't want to talk this time because I'm afraid, sir.

Q In other words it was not Aris Villanueva and Rodrigo Malong?

A Yes sir.

Q **And you did not tell the Police that it was Aris Villanueva and Rodrigo Malong who shot your husband?**

A **Yes sir.**