

EN BANC

[G.R. No. 153248, March 25, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JESUS MORILES,
JR., Y QUEBEC, APPELLANT.**

DECISION

QUISUMBING, J.:

On automatic review is the decision^[1] dated February 15, 2002, in Criminal Case No. 2883, of the Regional Trial Court of Carigara, Leyte, Branch 13, finding herein appellant Jesus Moriles, Jr., guilty of murder and imposing upon him the penalty of death, and ordering him to pay the heirs of the victim, Gary Basco, the sum of P75,000.00 as civil indemnity, P19,000.00 as actual damages, and P50,000.00 as moral damages.

In an Information dated May 19, 1999, the Provincial Prosecutor of Leyte accused Jesus Moriles, Jr., of murder, as follows:

That on or about the 13th day of March, 1994, in the municipality of Capoocan, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously attack, assault, and stab one GARY BASCO with the use of a knife (*pisao*) which the accused had provided himself for the purpose, thereby inflicting upon the latter the following wounds, to wit:

1. Rigor mortis
2. Stab wound at the 6th ICS directed upward 2-1/4 cm, in length 13-1/2 cm. depth, 7 cm. from the left median line.

Internal Findings

1. Presence of blood and blood clots inside the Thoracic Cavity.
2. Penetrating wound 1/2 cm. wide left lobe of the lung.
3. Penetrating wound 1/2 cm. wide at the left portion of the heart.

which wounds caused the death of said Gary Basco.

CONTRARY TO LAW.^[2]

A warrant of arrest was issued against Moriles immediately following the fatal stabbing incident in March 1994. But it was not until April 11, 1999 that the long arm of the law finally caught up with him.^[3]

On June 17, 1999, when he was arraigned with the assistance of counsel, he

pleaded not guilty.^[4] The case then proceeded to trial.

Evidence presented by the prosecution sought to establish its version of the fatal incident. At around 9:00 p.m. of March 12, 1994, a benefit dance was held at *Barangay* Lemon, Capoocan, Leyte. The dance lasted until around 1:00 a.m. the following day. Present were the victim Gary Basco, appellant Moriles and prosecution eyewitness Francisco Dadis, Jr.,^[5] among others. Basco was not from Capoocan. He was from Abuyog, Leyte.^[6] However, he frequented Capoocan as he was courting a local belle Dayluz Octavio, related to Dadis.^[7] Basco and Dadis were strangers to each other. On meeting at the dance, they struck an instant friendship and shared some liquor and talked about women.^[8] Dayluz was present at the dance. After the dance ended, Basco and Dadis proceeded to the girl's house so Basco could pay court.^[9]

Soon thereafter or at around 2:00 a.m. in the early morning of March 13, 1994, Basco and Dadis left the girl's residence. They were walking beside the river when, without warning, but in full sight of eyewitness Dadis,^[10] appellant suddenly appeared from behind and stabbed Basco once in the chest. The scene was illuminated by a street fluorescent lamp some five meters away.^[11] This made it easy for Dadis to see appellant, with whom Dadis was very familiar. They were after all neighbors.^[12] Dadis identified appellant in open court as Basco's assailant.

Dadis testified that the suddenness of the assault caught Basco and him off-guard. Basco had no opportunity to defend himself while Dadis said he had no chance to come to Basco's defense.

Appellant's weapon was a small bolo, locally known as *pisao*, about 6-1/2 inches long, inclusive of the handle.^[13] Appellant was able to keep the *pisao* out of sight by keeping it in line with his arm until the very moment of the stabbing,^[14] said Dadis. Stab wounds resulted in Basco's death.

Dr. Bibiana O. Cardente, municipal health officer of Capoocan, Leyte, examined the victim's cadaver. Her postmortem findings indicated that the victim died of severe hemorrhage due to a stab wound at the chest.^[15] The contents of the postmortem report as well as Dr. Cardente's expertise were admitted without any opposition by the defense.^[16]

In his defense, appellant interposed denial and alibi. He claimed that at the time of the incident, he was drinking beer at the house of Montano Gagante.^[17] He admitted being at the benefit dance at around 10:00 p.m. of March 12, 1994, but claimed that after an hour, he left with a certain Domingo Alegado.^[18] They headed toward Gagante's store, where they continued drinking.^[19] Due to a sudden rain, the dance ended at 1:00 a.m. of March 13, 1994. At about that time, Alegado and Gagante joined appellant's group at Gagante's house. They continued to drink beer, gin, and coke until 5:00 a.m. of March 13, 1994. Thereafter, appellant staggered home.^[20]

Appellant further testified that at around 6:00 a.m. on March 13, 1994, Francisco

Dadis, Jr., went to his house. Dadis asked appellant to go with him to Dadis' residence. There they were met by two policemen who questioned appellant about the stabbing incident. Appellant denied any knowledge of the incident and was allowed to go home.^[21] He denied that he ever went into hiding. He disclaimed any knowledge of a warrant of arrest having been issued against him.

In his testimony for the defense, Montano Gagante corroborated appellant's version of events.^[22] Gagante testified that his house was only eighty meters away from the place where the benefit dance was held.^[23] However, on cross-examination, he admitted that the place of the alleged stabbing incident was only thirty meters away from the place where the benefit dance was held.^[24]

The trial court disbelieved the appellant's defense while it found the prosecution's version worthy of credence. Accordingly, the court rendered judgment as follows:

WHEREFORE, premises considered, pursuant to Sec. 6, Art. 248 of the Revised Penal Code, as amended and subsequently amended by R.A. No. 7659, otherwise known as the Death Penalty Law, the Court found accused JESUS MORILES, JR., GUILTY beyond reasonable doubt of the crime of Murder and sentenced to suffer the Maximum penalty of DEATH and indemnify the heirs of Gary Basco the amount of Seventy Five Thousand (P75,000.00) Pesos, pay actual damages in the amount of Nineteen Thousand (P19,000.00) Pesos and moral damages in the amount of Fifty (P50,000.00) Thousand Pesos and pay the Cost.

SO ORDERED.^[25]

Hence, this automatic review.

In his Brief, the appellant ascribes the following errors to the trial court:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II

THE COURT A QUO GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH WITHOUT CONSIDERING THE ATTENDANT CIRCUMSTANCES OF THE CASE.

III

THE A COURT A QUO GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

IV

THE COURT A QUO GRAVELY ERRED IN AWARDING ACTUAL DAMAGES.
^[26]

Simply put, the issues before us concern: (1) the sufficiency of the prosecution's evidence to prove the appellant's guilt beyond reasonable doubt; (2) the correctness of the penalty imposed; and (3) the propriety of the award of actual damages.

On the *first issue*, appellant faults the trial court for giving credence to the testimony of the prosecution eyewitness, Francisco Dadis, Jr. He insists that Dadis could not have identified him as the malefactor since the alleged incident happened at 2:00 a.m. at a place where the illumination was poor. Furthermore, Dadis admitted he was some four meters away from Basco when he was stabbed. Appellant contends that under the foregoing conditions, the possibility that Dadis could have recognized him as the offender was unlikely.

For the State, the Office of the Solicitor General (OSG) submits that not only was the scene of the crime well lighted, as shown by the records, but also according to appellant's own admission, Dadis knew him since childhood. Appellant and Dadis were neighbors. Moreover, appellant could not cite any reason why Dadis would bear witness against him falsely. Hence, the OSG contends, no reversible error could be ascribed to the trial court when it chose to give weight and credence to the testimony of the prosecution eyewitness to convict appellant.

After considering carefully the evidence on record, we find appellant's arguments unavailing. First, nowhere in the record is there a showing that the illumination at the *situs criminis* was so poor at the time of the incident sufficient to raise doubt on the positive identification by the eyewitness of the appellant as the assailant. Second, appellant himself admitted that Dadis and he lived as neighbors and they knew each other since childhood.^[27] Appellant's physical features, build, and movements were familiar to the witness, Dadis. Familiarity with the physical features, particularly those of the face, is actually the best way to identify the person.^[28] Third, on cross-examination, appellant admitted that there was no bad blood between Dadis and him. Thus, he did not know any reason or motive why Dadis should testify falsely against him.^[29] As held in previous cases, where the conditions of visibility are favorable and the witness appears to be unbiased against the man on the dock, his statements as to the identity of the assailant deserve full faith and credence.^[30]

Against the positive identification of the appellant by eyewitness Dadis, all that appellant could offer in his defense were denial and alibi. Basic is the rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime.^[31] Physical impossibility refers to the distance between the place where the appellant was when the crime happened and the place where it was committed, as well as the facility of access between the two places.^[32] In this case, the Gagante residence where appellant claimed to be at the time of the incident was located in the same *barangay* where the fatal stabbing took place. Weak as the appellant's alibi is, it became even weaker when he failed to demonstrate that it was impossible for him to be at the scene of the crime when it was committed.^[33]

Noteworthy, after the stabbing incident, appellant took flight. A warrant of arrest against the appellant was issued on January 3, 1995. But it was only on April 11, 1999, that the appellant was taken into custody by the police. For five years,