

EN BANC

[G.R. Nos. 145452-53, June 10, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LARRY CARITATIVO ALIAS "LARRY," APPELLANT.

D E C I S I O N

CORONA, J.:

Before us on automatic review is the decision,^[1] dated May 12, 2000, of the Regional Trial Court of San Jose, Occidental Mindoro, Branch 46, in Criminal Case No. R-4112, finding the appellant, Larry Caritativo, guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the supreme penalty of death.

The information, dated January 23, 1997, charging the appellant, Larry Caritativo, of the crime of murder read as follows:

That on or about the 28th day of April, 1995 at around 3:30 o'clock in the morning, in Sitio Bulangcog, Barangay Iriron, Municipality of Calintaan, Province of Occidental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the accused being then armed with a sharp bladed instrument, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack, assault, and stab with the said weapon one Expidito "Freddie" Mariano, thereby inflicting upon the latter serious wounds which caused his untimely death.

CONTRARY TO LAW.^[2]

Upon arraignment on July 14, 1998, appellant, assisted by counsel *de officio*, pleaded not guilty to the crime charged.^[3] The next hearing, appellant waived his right to a pre-trial conference.^[4] Thereafter, trial on the merits ensued.

The prosecution presented four witnesses, namely: Catalino Gonzales, Expedito Prado, Dr. Michael Jimenez and Rosalinda Mariano.

Catalino Gonzales (Catalino) testified that around 3:30 a.m. on April 28, 1995, while he was attending a dance on the occasion of the wedding of Minesa Dalida and a certain Zamora in Sitio Bulangcog, Barangay Iriron, Calintaan, Occidental Mindoro, the appellant, Larry Caritativo, whispered^[5] to him that he was going to stab somebody. Catalino had known the appellant for a long time because they were neighbors.^[6] Appellant's father, Peping Caritativo, and Catalino were friends.^[7]

Catalino asked the appellant who he was going to stab. The appellant pointed to a certain person Catalino did not know, saying that that person was the one who ran over and killed his mother ("*siya ang nakasagasa sa nanay ko*").^[8] The appellant

then showed Catalino a knife tucked in his waist. The knife was a double-bladed instrument about 8 inches long.^[9]

Catalino did not know the person singled out by the appellant. Nevertheless, he advised the intended victim to leave the dance hall.^[10] About five minutes later,^[11] a commotion arose. People inside the dance hall were running in different directions. Most of them ran towards the jeep parked some ten meters away^[12] from the dance hall. Two persons^[13] had been stabbed. One was bleeding inside the jeep while the other was sprawled on the ground, dying. One of the victims was Freddie Mariano (the victim in this case). Catalino knew Mariano but did not know the other victim.^[14]

At around 4:00 a.m.,^[15] Catalino left the dance hall to go home. He met the appellant on the highway, about 150 meters from the dance hall. They went home together. While walking, the appellant put his arm on Catalino's shoulder and told him that he was the one who stabbed the victims. Pointing to his stomach, the appellant said, "*Dito pare, sinagad ko hanggang lumagitik sa jeep.*"^[16]

Catalino did not believe the appellant at first but when a vehicle passed by and its lights focused on the appellant's white shirt, Catalino noticed blood on it. The appellant started to run away but Catalino held his arm. Catalino told him not to run lest the people suspect him. They then proceeded to their respective homes. Catalino's house was only one kilometer away from the dance hall. Before they parted, the appellant told Catalino not to tell anybody about his revelation.^[17]

At around 7:00 a.m. of the same day (April 28, 1995), the father of the appellant, Peping Caritativo (Peping), went to Catalino's house. Peping and Catalino were neighbors. Peping told Catalino, "*Pare, ikaw lang ang nakakaalam na nakasaksak ang aking anak.*" Catalino replied, "*Pare, pag nalaman ng batas 'yan delikado ka.*" Peping then threatened him, "*Pare, ikaw lang ang nakakaalam nito kaya delikado ka!*"^[18]

Towards the end of his testimony, Catalino Gonzales identified and affirmed his sworn statement executed on May 12, 1995.^[19]

The second prosecution witness was Expedito Prado (Expedito). He testified that he had known the appellant for six years.^[20] At around 3:30 a.m. on April 28, 1995, while a dance was going on during the wedding reception of his niece, Minesa Dalida, in Sitio Bulangcog, Iriron, Occidental Mindoro, he was seated on a chair outside a parked passenger jeep, waiting for a ride home to Calintaan. The parked passenger jeep was about four arms' length away from the dance hall.^[21] Without noticing Expedito, the appellant entered the jeep and immediately stabbed the two sleeping persons inside ("*pag-akyat sa jeep bigla na lang sinaksak 'yung dalawang natutulog*").^[22]

When the appellant alighted, he noticed Expedito. The appellant chased him but Expedito was able to escape.^[23] The appellant ran towards the mango tree, about 20 meters from the parked jeep,^[24] while Expedito ran home to Poblacion, Calintaan which was about three kilometers away.^[25]

The third prosecution witness was Dr. Michael Jimenez, the rural health officer of Rizal, Occidental Mindoro. He examined the cadaver of the victim, Freddie Mariano, and he found one stab wound on the chest, specifically on the 4th intercostal space, midclavicular line. The size of the wound was four centimeters. There were no contusions, bruises or any other injuries found on the cadaver of the victim. The victim's heart was hit, thus no immediate medical attendance could have saved him. The immediate cause of death was loss of blood. The sharp object used to inflict the wound could have been a knife or a bolo. The assailant could have been either in front of the victim or at his side. There was a possibility that the assailant was in front of the victim. [26]

Dr. Jimenez affirmed and identified the medico-legal report he issued on April 28, 1995. [27] Being familiar with the handwriting of his wife, Dr. Beth Jimenez, Dr. Michael Jimenez likewise affirmed the correctness and authenticity of the death certificate of the victim which Dr. Beth Jimenez issued as the rural health officer of Calintaan, Occidental Mindoro. [28]

Dr. Beth Jimenez was actually present in court and ready to testify but her testimony was dispensed with because the defense admitted the authenticity of the death certificate she issued. [29]

The fourth and last prosecution witness was Rosalinda Mariano (Rosalinda), the mother of the victim Freddie Mariano. She testified that Freddie was her eldest son. He was legally married but was separated from his wife. They had a 15-year-old son who was in her custody since childhood. As a result of the death of her son, she incurred expenses in the amount of P120,000. The breakdown of the expenses incurred was listed on a piece of paper which she identified in court. [30]

Her son, during his lifetime, was a farm helper of the Valerio family with a fixed monthly salary of P3,000. She knew the victim's salary because he used to send her money for the studies of one of his sisters in college. Her son was 41 years old when he was killed. The death of her son was very painful to her and she still felt the pain of his loss. She also would not be able to support the needs of the victim's son because she was already old and had no income. [31]

On cross-examination, Rosalinda testified that she did not secure receipts for all the expenses listed on the piece of paper but might be able to secure a receipt for the coffin and the embalming. [32]

For its part, the defense presented four witnesses: Monchito Angeles, Minesa Zamora, Santiago Caritativo and appellant himself, Larry Caritativo.

Monchito Angeles (Monchito) testified that he arrived at the wedding party at around 7:00 p.m. on April 27, 1995. He helped in serving the food. He noticed the presence of the appellant at around 9:00 p.m. He, his brother-in-law Herbert Montenegro, Obet Tanglaw and the appellant held a drinking spree. After the drinking session (he could not remember the exact time it ended), he joined the dancing in the dance hall. At around 3:30 a.m., he was dancing the cha-cha with the appellant beside him. They suddenly heard shouting coming from where the "Jet-Ric" passenger

jeep was parked. The jeep was about 30 meters away from the dance hall.^[33]

People ran towards the jeep. Monchito did the same. There, he saw Freddie Mariano dead inside the jeep and Marlon Trambulo bleeding on the ground. He helped Marlon board the jeep with the help of Herbert Montenegro and one of Montenegro's conductors.^[34]

Marlon Trambulo died on the way to the hospital without being able to tell him who the perpetrator was. Monchito and his companions then brought the victims to the Municipal Hall but the policeman at the police station advised them to bring the dead bodies to their respective houses. The parents of Marlon cried but the parents of Freddie were angry. They then washed the jeep in the river and went home.^[35]

In May, 1995, less than a month after the incident, he learned that the appellant was the suspect in the killing of Freddie and Marlon. He did not give any statement during the investigation conducted by Judge Josefino A. Garillo because he did not know that he would be called to testify later on. The appellant did not talk to him before he testified in court. He was surprised that the appellant was a suspect because he was with him in the dance hall at the time of the incident.^[36]

On cross-examination, he testified that the light in the dance hall illuminated the parked jeep. One could run to the jeep from the dance hall in four or five seconds. He could not remember how many were dancing in the hall. He was conversing with the appellant at that time. During the commotion, he did not notice the direction where appellant ran because he was focused on finding out what the commotion was all about.

The appellant was just an acquaintance. His house was two kilometers away from appellant's. He saw the appellant in their barrio three days after April 28, 1995 but did not know that appellant was the suspect in the killing of Freddie Mariano and Marlon Trambulo. After he learned that appellant was the suspect, he no longer saw him in their barrio. He later heard that appellant was arrested in Tondo, Manila.^[37]

The second defense witness was Minesa Dalida-Zamora. The appellant was her sister's brother-in-law. She testified that, on April 28, 1995, at around 3:30 a.m. when the commotion occurred, she saw the appellant dancing, together with Monching (Monchito) Angeles. She did not bother to go to the crime scene or inquire what happened. She went to her room in the house adjacent to the dance hall and slept because she was already very sleepy.^[38]

On cross-examination, she testified that she was inside her house preparing to sleep when she saw the appellant dancing. He was with Monching Angeles. Her house was near the dance hall and there were many people inside her house, mostly her relatives. When the commotion happened, the appellant did not leave the dance hall and continued dancing.^[39]

The third defense witness was Santiago Caritativo,^[40] the father of the appellant. He had seven children, of whom the appellant was the fifth. He testified that, in the morning of April 28, 1995, he went to the house of prosecution witness Catalino Gonzales to get the fish he ordered. Since Catalino was not able to get the fish, he

returned to his house. He and the appellant arrived there simultaneously at around 6:00 a.m. There was nothing unusual about the appearance of the appellant who told him about the stabbing incident: that one was dead and another was seriously wounded. He had already heard about it though from his neighbor, Catalino Gonzales. Catalino testified against his son (the appellant) because he (Catalino) suspected him (Santiago Caritativo) of hacking his dog. On May 8, 1995, the appellant left Calintaan for San Jose, Occidental Mindoro to look for work.^[41]

On cross-examination, Santiago testified that he did not see the appellant from May 8, 1995 up to May 27, 1998 or a period of three years. From the hall where the wedding party was held, appellant's house was nearer (only one kilometer away) than his house which was four kilometers away. At 6:30 a.m. on April 28, 1995, the appellant arrived at his house and confirmed what Catalino had already told him about a dead person and another who was seriously wounded.^[42]

The fourth and last defense witness was the appellant himself, Larry Caritativo. He was a resident of Bulangcog, Iriron, Calintaan, Occidental Mindoro since birth. He testified that he went to the wedding party at around 7:00 p.m. on April 27, 1995. At around 3:00 a.m., he helped out in the kitchen. At 4:00 a.m., he joined the dancing at the hall. He could not remember the names of the persons on the dance floor, except Monching (Monchito) Angeles. Although he joined the drinking spree, he was not drunk. He did not know the victims, Freddie Mariano and Marlon Trambulo. He was not aware of any commotion in the early morning of April 28, 1995.^[43]

He left the dance hall at 6:00 a.m. and went home by foot. His house was two kilometers away from the hall. He did not meet anybody on the way. He proceeded to his father's house instead and rested there from 7:00 a.m. to 1:00 p.m. His father and mother were at home. His parents' house was two kilometers away from his. His father told him that Freddie Mariano and Marlon Trambulo were killed but he had no reaction to the said information. After resting, he went to the place where the wedding was held and helped in the dismantling of the "*damara*."^[44]

He went to Manila on May 8, 1995 to look for a job. He landed a stevedoring job at Pier 2 with the North Star Company. He worked there for two years (from May 1995 to the latter part of 1997) but lost his ID and other documents issued by North Star. He, however, had an ID of Bantay Bayan, Manila. He was arrested on May 27, 1998 in Tondo, Manila while working as a vendor in Divisoria at that time. From the time he left Bulangcog, he communicated with his wife and parents through letters.^[45]

On cross-examination, appellant testified that he knew that there was a jeep parked near the dance hall. In the early morning of April 28, 1995, he did not notice anything unusual at the wedding party. He was not aware that people ran towards the parked jeep because he was busy helping out in the kitchen. He heard the commotion but did not leave the kitchen. He did not know prosecution witness Expedito Prado and had no quarrel with him. His cousin, Renato Walata, told him to go to Manila on May 8, 1995 to look for a job.^[46]

On re-direct examination, the appellant testified that he noticed the commotion while dancing. He was with Monching Angeles. He did not go to the place where the