

## **FIRST DIVISION**

**[ G.R. No. 140426, July 30, 2002 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE ANDARME (AT LARGE), LORETO PAMAT (AT LARGE), RONALDO SILVIO (AT LARGE), ROQUE ANDARME, ACCUSED, ROQUE ANDARME, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**YNARES-SANTIAGO, J.:**

At 6:00 in the morning of September 29, 1988, Loreto Morante Sr. invited Virgilio Giron to accompany him to Dulag, Leyte to buy cement and steel bars for the construction of the base of his abaca stripping machine. They proceeded to Dulag, Leyte in two separate motorcycles. Loreto drove the first motorcycle with his wife and 5-year old son, Leo, as backriders, while Virgilio drove the second motorcycle with Loreto's other son Rolly.

After buying the construction materials, they all went back to La Paz, Leyte. At 9:00 in the morning of the same day, Loreto met Arturo Custodio at the La Paz municipal building where the latter worked as radio operator. Loreto invited Arturo to a gathering or "buhay-buhay" at Barangay Mag-aso, La Paz, Leyte. Arturo accepted the invitation but said that he would just follow as he had to finish some work. After ten minutes, Arturo followed on board a Kawasaki motorcycle.

While traveling towards Mag-aso, Virgilio and Rolly were riding about forty meters behind Loreto's motorcycle. Arturo, in turn, was following them about twenty meters behind Virgilio and Rolly. When Loreto Morante reached the boundary of Pawa and Mag-aso, accused Loreto "Purit" Pamat motioned him to stop. Virgilio, who was twenty-five meters behind, heard gunfire and saw Loreto's wife, Estelita, and son, Leo, fall down from the motorcycle. Loreto Morante, who was already wounded, ran away.

Accused-appellant Roque Andarme and his son, Eddie, were waiting near the abaca plantation, about ten meters away from the victims, toting long firearms. At the sight of armed men, Virgilio pulled Rolly with him and ran towards the plantation on the left side of the road leaving behind their motorcycle. They proceeded to the Camp of the Field Force at the Poblacion of La Paz and reported the shooting incident. Later, Virgilio went home and left Rolly in the camp.

Arturo, on the other hand, who was about sixty meters away from where the shooting occurred, saw Purit, accused-appellant, Eddie and Ronaldo Silvio fire at Loreto, his wife and son. After witnessing the shooting, he went back to the municipal building of La Paz and reported the matter to a policeman named Boy Maray. Thereafter, he learned that Estelita and Leo had died.

Loreto survived the shooting. While he was recuperating in the hospital, Loreto told his son, Romeo, who shot them. He later on executed an affidavit naming accused-

appellant and his co-accused as the persons who shot him, his wife and son.<sup>[1]</sup> Rolly likewise executed an affidavit also naming accused-appellant and his co-accused as the persons he saw shooting at his parents and younger brother.<sup>[2]</sup>

Accused-appellant, on the other hand, alleged that at 7:00 in the morning of September 29, 1988, he was at the house of Catalino Mercado in Kalipayan Street, La Paz, Leyte. A policeman named Pat. Marcelino Ocoy arrived and asked Catalino to accompany him to the scene of the shooting incident somewhere between Barangays Pawa and Mag-aso. Accused-appellant went with Pat. Ocoy and Catalino to the Municipal Building to get firearms. As there were not enough firearms, Catalino convinced accused-appellant to stay in the Municipal Building. Pat. Ocoy, together with La Paz policemen and Alsa Masa members, went to the crime scene and retrieved the bodies of Estelita and Leo Morante.

On October 15, 1988, two weeks after the shooting incident, accused-appellant went to Manila to work as a janitor at the Polyglass International Company. He returned to La Paz upon his retirement nine years later. It was only upon his return that he learned of the case filed against him, which prompted him to surrender to SPO4 Gayupitin.

Roque Andarme, Eddie Andarme, Loreto Pamat and Ronaldo Silvio were charged with double murder and frustrated murder. Only accused-appellant was apprehended. The other accused remained at large. Hence, the case was heard as against Roque Andarme only.

On April 19, 1999, the trial court rendered a decision<sup>[3]</sup> as follows:

WHEREFORE, finding the accused Roque Andarme Guilty beyond reasonable doubt of the crime as charged under single information, this Court hereby sentences the said accused to suffer the penalty of reclusion perpetua.

Ordering, further, the said accused to indemnify the offended party and to pay the costs.

Hence, this direct appeal anchored on the following assignment of errors:

I

THE TRIAL COURT ERRED IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN FINDING THAT THERE WAS CONSPIRACY, TREACHERY AND EVIDENT PREMEDITATION.

III

THE TRIAL COURT ERRED IN HOLDING THAT APPELLANT WAS GUILTY OF FLIGHT AND CONCEALMENT.

Accused-appellant assails the prosecution witnesses' positive identification of him as one of the perpetrators. He asserts that Arturo's testimony is incredible considering that at the time the shooting occurred, he was already more than 50 years old; he was approximately 60 meters away from the place where the victims fell when they

were shot; and that there were abaca plants growing in the plantation at the time of the shooting which covered the back of the plantation.

Accused-appellant's assertion lacks merit. Arturo's age does not disqualify him from being a reliable witness. Besides, there was no evidence that Arturo had poor eyesight such that he could not have seen the perpetrators from a distance of 60 meters. The shooting happened at 9:30 in the morning. Where conditions of visibility are favorable and the witnesses do not appear to be biased against the accused, their assertions as to the identity of the malefactors should normally be accepted. In the absence of any evidence to show that the witness was actuated by any improper motive, his identification of the accused as the assailant should be given full faith and credit.<sup>[4]</sup> Accused-appellant cannot give any reason why Arturo would testify falsely against him. It would be against the natural order of events and of human nature, and against the presumption of good faith, that a prosecution witness would falsely testify against accused-appellant.<sup>[5]</sup>

When there is no evidence to indicate that the principal witness for the prosecution was moved by an improper motive, the presumption is that such motive was absent, and that the witness' testimony is entitled to full faith and credit. Between appellant's denial and the witness' positive testimony, there is no doubt that the latter is entitled to credence.<sup>[6]</sup>

Regardless, accused-appellant's contention that the gunshots came from the back of the abaca plantation was based on Virgilio's testimony and not on Arturo's. It is, therefore, misleading for accused-appellant to conclude that Arturo could not have positively identified him based on conditions at the crime scene which were described by Virgilio. Moreover, Virgilio's narration of the events and description of the crime scene were hardly helpful. Nevertheless, Arturo positively identified accused-appellant and his three co-accused based on his familiarity with them, having known them since childhood.<sup>[7]</sup> Virgilio, on the other hand, does not know accused-appellant and his co-accused personally but only by their faces.<sup>[8]</sup>

We agree with the trial court's observation thus:<sup>[9]</sup>

x x x [P]rosecution witness, Arturo T. Custodio Sr. testified clearly and positively when he identified the accused Loreto Pamat who flagged down the motorcycle where Loreto, his wife and son were riding on board and simultaneously, accused Roque Andarme, Ronaldo Silvio, Eddie Andarme and Loreto Pamat, with the use of long firearms fired upon Loreto, his wife and son.

Well-settled is the rule that the positive identification of the accused – when categorical and consistent and without any ill motive on the part of the eyewitness testifying on the matter – prevails over alibi and denial which are negative and self-serving, undeserving of weight in law.<sup>[10]</sup>

When the trial court observed that Arturo testified "clearly and positively"<sup>[11]</sup> in identifying accused-appellant as one of the perpetrators of the shooting and killing of the victims, it goes without saying that Arturo's identification of him was also credible.

In fact, in this case, the trial court was not only a passive observer of the trial proceedings. The trial court extensively participated in the direct and cross-examinations of the witnesses by asking clarificatory questions to ferret out the truth.<sup>[12]</sup> In so doing, the trial court was also assessing the credibility of the witnesses.

As to who between the prosecution and the defense witnesses are to be believed, the trial court's assessment enjoys a badge of respect for the reason that the trial court has the advantage of observing the demeanor of the witnesses as they testify, unless found to be clearly arbitrary or unfounded. The rationale for this doctrine, as explained in *People v. Cayabyab*, is that "the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt and innocence of the accused. That line may not be discernible from a mere reading of the impersonal records by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict."<sup>[13]</sup>

Hence, well-settled is the rule that the findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the "furtive glance, blush of conscious shame, hesitation, flippancy or sneering tone, calmness, sigh, or the scant or full realization of an oath" – all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.<sup>[14]</sup>

Still, accused-appellant implies that the trial court may have overlooked or misappreciated Arturo's actions and omissions thereby making his testimony, and more particularly his identification of accused-appellant as the perpetrator, doubtful. Specifically, accused-appellant points out that Arturo did not help Loreto when he saw him wounded but instead went back to the municipal building, reported the incident to a policeman and then went back to work. He did not even execute an affidavit despite having witnessed the shooting incident. Because of these, accused-appellant concluded that Arturo may not have been at or near the crime scene. This was even bolstered by the testimony of Catalino Mercado, a relative of the victims, that accused-appellant was at his house at the time and day of the shooting incident.

In this connection, the following reasoning of the Solicitor General is enlightening:

It is possible that he did not execute an affidavit on the incident because at that time, one of the victims, Loreto Morante, was alive and his narration of events sufficiently identified the perpetrators of the crime. However, according to Arturo, Loreto during his lifetime requested him to