

## EN BANC

**[ G.R. No. 144308, September 24, 2002 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ANTONIO BARCELON, JR. Y RENDURA @ "JUN," ACCUSED-  
APPELLANT.**

### D E C I S I O N

#### **QUISUMBING, J.:**

On automatic review is the decision<sup>[1]</sup> dated August 8, 2000, of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case No. C-58255 (99), finding appellant Antonio Barcelon, Jr., guilty of murder and imposing on him the penalty of death.

Appellant was charged with the crime of murder in an amended information which reads as follows:

That on or about the 24th day of November, 1999, in Caloocan City, Metro Manila, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and stab with a bladed weapon on the vital parts of the body of one Nicasia Amador y Arago, thereby inflicting upon the latter serious injuries, which injuries caused the victim's death.

That in the commission of the crime, the qualifying aggravating circumstances of treachery and abuse of superior strength were present.

Contrary to Law.<sup>[2]</sup>

Upon arraignment, appellant pleaded not guilty. Trial thereafter commenced.

From the testimonies of its witnesses, the trial court summed up the prosecution's version of the incident:

Around 9:30 in the morning of November 24, 1999, appellant Antonio Barcelon was seen sitting on the concrete bench fronting the residence of Dr. Nicasia Amador in Barangay Binhagan, Caloocan City. Appellant was restless and "palinga-linga". Later, appellant went inside the Amador's house (pp. 4-5, TSN, May 10, 2000).

Inside Amador's house, Isabel Medino was cooking in the kitchen. Medino heard Dr. Amador shouting "Ay! Ay! Ay!" Medino ran to the sala and saw appellant strangling and stabbing Dr. Amador (pp. 7-8, TSN, May 30, 2000). At that point, Medino and appellant stared at each other (Nagkatinginan po kami) (p.9, TSN, May 30, 2000).

Dr. Amador shouted "SAKLOLO!" Appellant left the house holding a knife. When appellant was asked by Virgilio Roque why the doctor was shouting, appellant casually remarked "MAY NASAKSAK" (pp. 4-5, TSN, May 9, 2000). Dr. Amador then came out holding her bleeding left arm. She asked for help (p.9 TSN, May 30, 2000). Her breast was also bleeding. (p. 10, TSN, May 30, 2000). She was brought by her neighbors to the Chinese General Hospital (p. 37 TSN, May 10, 1999) where she was attended to by Dr. Laren Sagurus for stab wounds at her right neck and infraclavicular area. Dr. Amador started to have a coughing episode, became pale and gasped for breath. Her blood pressure went down. At 3:05 in the afternoon, she was pronounced dead (p. 11, TSN, June 19, 2000).

Meanwhile, concerned neighbors pursued appellant. The police authorities, together with Salvador Dera and Rommel Adams, caught up with appellant in Kanlaon St, Quezon City (pp. 11-16, TSN, May 10, 2000; p. 16, TSN, May 16, 2000). At the time of the incident, appellant was wearing a dirty white sleeveless shirt (sando) (p.12, TSN, May 16, 2000). The sando (Exhibit P with submarkings; Exhibit BB) was referred to the PNP Crime Laboratory for examination. The serology report (Exhibit AA) indicated "presence of human blood" (Exhibit AA-2 and AA-3). [3]

Appellant appeared as the sole witness for his defense, and his testimony has been summarized by the trial court as follows:

ANTONIO BARCELON, JR., testified that on November 24, 1999 at around 9:00 a.m. he went to Cash Motor of Abad Santos to apply for a job but was informed by the security guard that there was no vacancy. So he decided to go home. While walking along Bonifacio Avenue and when he was about to cross Mayon Street to get a ride, he saw a group of persons chasing another person towards his direction. He thought that there was a riot so he immediately crossed the Mayon Street. Then suddenly, he heard someone pointing at him, so he ran. After crossing the said street, he walked casually. After walking about three blocks heading Banawe St., a policeman and an Indian National on board a motorcycle appeared and blocked his way. The policeman pointed a gun at him. He asked him why, but the policeman ordered him to lie down instead and told him that he was one of those being chased by a group of persons. He again asked them the reason for his arrest but the policeman said that he can explain in the police station later.

He was then turned over to the Caloocan Police Station. He was ordered to change his white T-shirt with a green one. He was brought to the place of incident where he was nabbed and mauled by the persons present in that place. Then he was detained at the Caloocan City police precinct. (TSN, July 11, 2000, pp. 2-12.) [4]

In convicting appellant, the court *a quo* gave credence to the testimony of the lone eyewitness for the prosecution, Isabel Medino. The court found her testimony to be positive, sincere and delivered with candor. Having had the untrammelled opportunity to directly observe her deportment and conduct while testifying, the court further noted that "definitely she did not give the impression that she is

distorting facts to wrongly implicate an innocent man in a crime so serious as Murder.”<sup>[5]</sup> There was likewise no ill-motive found on the part of Isabel, for her to testify falsely.<sup>[6]</sup>

According to the trial court, Isabel’s positive identification of the appellant was also bolstered by the testimony of other witnesses who saw appellant acting strangely outside the victim’s house before he entered it. Shortly after the crime was committed, two witnesses also saw appellant hurriedly coming out of the house with a concealed knife in his possession.

Weighed against the inherently weak defense of denial and alibi proffered by the appellant, the trial court sustained the version of the prosecution. It gave no credence to the contention of appellant that the witnesses as well as the police had mistaken him for the actual culprit. The trial court also noted flight of the appellant as an index of his guilt.

The trial court found that the killing was attended by treachery, which qualified the killing to murder. It also found that the attendant circumstances of dwelling and abuse of superior strength aggravated the offense. Hence, the sentence imposed on appellant by the trial court which reads as follows:

WHEREFORE foregoing premises considered and the prosecution having established beyond an iota of doubt the guilt of Accused ANTONIO BARCELON, Jr. y RENDURA of the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code as amended by R.A. 7659 and considering the presence of the aggravating circumstance of dwelling without any mitigating circumstance to off-set it, this Court consistent with the provision of Art. 63 of the Revised Penal Code, hereby imposes upon the said Accused the maximum penalty of DEATH; to indemnify the legal heirs of the deceased the civil indemnity of P50,000.00; to pay the Private Complainant the actual damages in the total amount of P306,939.02 including moral damages of P200,000.00 and exemplary damages of P150,000.00, plus costs.

x x x

SO ORDERED.<sup>[7]</sup>

Now before us on automatic review, appellant assigns the following errors allegedly committed by the trial court:

#### I

GIVING CREDENCE TO THE TESTIMONIES OF PROSECUTION WITNESSES PARTICULARLY SALVADOR DERA, VIRGILIO ROQUE AND ISABEL MEDINO DESPITE THEIR BEING UNRELIABLE, UNBELIEVABLE AND BIASED.

#### II

THE TRIAL COURT GRAVELY ERRED IN TAKING INTO ACCOUNT THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND ABUSE OF SUPERIOR STRENGTH DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH THE SAME WITH CERTAINTY.

#### III

FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE  
CRIME OF MURDER AND IN IMPOSING THE SUPREME PENALTY OF DEATH.

Three issues need to be resolved: (1) whether the prosecution witnesses are credible; (2) whether treachery, abuse of superior strength, and dwelling attended the commission of the crime; and (3) whether the death penalty has been properly imposed.

On the issue of credibility, appellant alleges that the testimonies of prosecution witnesses were tainted with suspicion and bias. In particular, the testimonies of witnesses Virgilio Roque, Salvador Dera and Isabel Medino, according to appellant, lack credibility.

Appellant attacks the credibility of Isabel Medino, the lone eyewitness to the stabbing, by pointing out that it took her two weeks after the incident to give her statement to the police, unlike other witnesses who gave their statements on the day the crime was committed. Moreover, Medino was inconsistent on her account of where she was during those two weeks after the killing. Initially, she had said she was with the Amadors, but on cross-examination, she stated that she went to the province. Appellant also avers that Medino's testimony may also be tainted with bias as she works for the Amadors. According to appellant, her motive is to help her employer in prosecuting the appellant.

For the appellee, the Office of the Solicitor General (OSG) contends that eyewitness Isabel Medino positively identified appellant as the person who stabbed the victim.

[8] The OSG cites Isabel's testimony<sup>[9]</sup> where she stated that she was about four steps away when she saw the appellant strangling and stabbing the victim. She even testified that she was able to identify the appellant as, in the course of the stabbing and just before appellant ran out, they stared at each other. According to the OSG, her testimony alone is sufficient to warrant appellant's conviction, as the testimony of a single witness, if positive and credible, is sufficient to sustain a judgment of conviction, even in a charge of murder.<sup>[10]</sup>

With regard to the testimonies of Roque and Dera, appellant contends that they did not witness the actual stabbing of the victim but only saw appellant within the premises of the Amadors' house. According to appellant, this does not conclusively establish that he is the killer. It is even surprising, according to appellant, for Roque and Dera to say that he was the one who told them that somebody was killed inside the Amadors' house.<sup>[11]</sup> The closeness of Roque to the victim, treating her as a second mother, and admitting that he was willing to help the family of the victim to obtain justice,<sup>[12]</sup> clearly tainted his testimony with bias, according to appellant. Appellant further stresses that since the victim's husband is a lawyer by profession, he is quite capable of rehearsing the witnesses and supplying the details just to pin down any suspect.<sup>[13]</sup> Hence, appellant avers that the testimonies of Roque and Dera were unreliable.

The OSG argues, however, that, with regard to the testimonies of Roque and Dera, though they did not actually see the stabbing incident, they corroborated the testimony of Medino and placed the appellant at the scene of the crime. Roque also identified the knife held by the appellant as he emerged from the house as the same knife utilized as the murder weapon. The OSG avers that there is no sufficient showing that the prosecution witnesses were biased against appellant. The

relationship of the witnesses to the victim, by itself, does not give rise to the presumption of bias or ulterior motive, nor does it ipso facto impair the credibility of the witnesses, nor tarnish the testimony of said witnesses. Moreover, the close relationship of a witness could enhance the trustworthiness of his testimony, as he would naturally impute the crime only to the actual perpetrator since he would want to bring only the real culprits to justice, and not falsely accuse innocent persons.<sup>[14]</sup>

The contentions of the OSG are well-taken.

The pertinent portions of the testimony of Isabel Medino appears as follows:

Q: At around 10:00 o'clock in the morning of November 24, 1999 do you remember where you were?

A: I was cooking sir.

Q: Where?

A: In the kitchen sir.

Q: In what house?

A: Of Dra. Amador sir.

Q: And while cooking in the kitchen of the residence of Dra. Amador at that time and date did anything happened unusual?

A: There was sir.

Q: What was that?

A: On that fateful day and time while I was cooking I heard shout saying "ay, ay, ay" sir.

Q: Were you able to determine where that voice or shout is coming?

A: Inside their house particularly in the sala sir.

Q: Upon hearing those shouts or voices of [D]ra. [N]icasia [A]mador what did you do?

A: I ran toward the sala sir.

Q: Did...were you able to reach the sala?

A: Yes sir.

Q: And what happened when you reached the sala?

A: I saw a dark and slim body built man strangling with his right hand and at the same time stabbing Dra. Nicasia Amador with his left hand sir.

Q: When you saw that man strangling and stabbing [D]ra. [A]mador by that man, how far were you, I am referring to the victim and that person who according to you strangling and stabbing [D]ra. [N]icasia [A]mador?

A: Apat na hakbang po.