

SECOND DIVISION

[G.R. No. 129305, January 18, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SUKARNO DINDO Y GIAMALO, ACCUSED-APPELLANT.**

D E C I S I O N

BUENA, J.:

For the death of Crestita Lao, herein accused-appellant Sukarno Dindo was charged, tried and convicted of murder by the Regional Trial Court of Pasig City, Branch 156, in Criminal Case No. 110648-H and sentenced, thus:

"WHEREFORE, in the light of the foregoing, the Court hereby CONVICTS accused SUKARNO DINDO y Giamalo of the crime of Murder, qualified by treachery and sentences him to suffer the penalty of reclusion perpetua, to indemnify the heirs of victim Crestita Lao y Claver in the amount of Fifty Thousand Pesos (P50,000.00); to pay the sum of Forty Thousand Pesos (P40,000.00) as funeral expenses; and the further sum of Fifty Thousand Pesos (P50,000.00) by way of moral and exemplary damages, all without subsidiary imprisonment in case of insolvency and to pay the costs.

"In the service of his sentence said accused shall be credited in full with the period of his preventive imprisonment.

"Let a Commitment Order be issued for the transfer of accused SUKARNO DINDO y Giamalo from the BJMP, Camp Bagong Diwa, Bicutan, Taguig, Metro Manila, to the New Bilibid Prisons, Muntinlupa City.

"SO ORDERED."^[1]

The Information filed against accused-appellant reads:

"On or about July 28,1996, in Taguig, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and mutually helping and aiding one another with three (3) unidentified male persons whose true identities and present whereabouts are still unknown, with intent to kill, and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and shot Crestita Lao y Claver with a gun, thereby inflicting upon said Crestita Lao y Claver gunshot wound, which directly caused her death."^[2]

Upon arraignment, accused-appellant pleaded not guilty. Trial on the merits thereafter ensued.

The prosecution's evidence tends to establish that at around 10:00 o'clock in the morning of July 28, 1996, Crestita Lao, together with her daughter, Nympha Lao, and two Taiwanese nationals, Hwang Yu Chin-in and Chin Fu Hwang, boarded the tricycle being driven by accused-appellant in front of the Taguig National High School in Taguig. Crestita Lao sat at the front passenger seat near the driver's seat with Yu Chin-in while Nympha Lao and Chin Fu Hwang occupied the back seat of the sidecar. Crestita Lao contracted to pay the fare for the remaining two unoccupied seats and directed accused-appellant to drive towards FTI, Alabang. However, before they could proceed, three (3) men boarded the same; two sat behind accused-appellant while the other seated himself beside the side-wheel. When they were about fifty (50) meters from the terminal, accused-appellant turned towards the Sta. Nina Rasul Cemetery. Surprised by the deviation from the route, Crestita Lao asked accused-appellant, in Muslim language, "*ano ito? ano ito?*". One of the men replied, "*wala ito, wala ito.*" After a few turns, accused-appellant stopped in front of the cemetery and the three (3) men alighted. The man wearing a black jacket drew his gun and pointed it at Nympha Lao and Chin Fu Hwang. Believing that they were being held-up, Nympha Lao removed her wristwatch and gave it to the man holding the gun. But the latter refused to take the wristwatch. When Nympha Lao tried to alight from the tricycle she was pushed back. Thereupon, she heard her mother twice say, "*Wala kaming pera, ito lang.*" Soon afterward, she heard a gunshot. Nympha Lao looked behind her and saw the three (3) men running away towards the cemetery. Stunned by what he witnessed, Hwang Yun Chin-in likewise ran away. Nympha Lao alighted from the tricycle and saw her mother lying on the ground with a gunshot on the upper left eyebrow. She sought the help of her neighbor Mario dela Serna and brought her mother to the hospital where she was declared dead. Accused-appellant also fled after the incident.^[3]

A post-mortem examination on the cadaver of Crestita Lao by Dr. Emmanuel L. Aranas revealed the following findings:

"Gunshot wound, thru and thru, point of entry, left supraorbital region, measuring by 0.5 cm, 6 cm from the anterior midline, with surrounding tattooing measuring 3.5 by 4 cm, directed posteriorwards, upwards, and medialwards, fracturing the frontal, left parietal bones, and lacerating the left cerebral hemisphere, with intracranial hemorrhages, making a point of exit at the left parietal region, measuring 2 by 1.8 cm, 4 cm from the midsagittal line. x x x

"Cause of death is gunshot wound of the head."^[4]

Accused-appellant denied the charge against him. He testified that at around 9:00 o'clock in the morning of July 28, 1996, while he was at IRM Maharlika, Taguig, five (5) persons boarded his tricycle. Then, one of the passengers told him, "*sige na,*" Before he could drive away, three (3) men boarded the tricycle. Two occupied the seat behind him while the other man sat at the sideboard of the tricycle. Accused-appellant drove towards the FTI, Taguig. When they reached the Santa Nina Rasul Cemetery, the man behind him poked a gun at him, and directed him to stop. Thereafter, the man alighted. At that instance, accused-appellant heard one of the men say, "*ilabas ang pera*" to which one of the woman passengers replied that they had no money. Again, he heard another man asking for money and someone replied saying they had none. At that instance, accused-appellant heard shots. He alighted and saw one of the men pointing a gun. Fearing for his life, he fled towards the