

SECOND DIVISION

[G.R. No. 130378, March 08, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL MATARO Y ELIZAGA AND NICK PERUCHO Y SINGSON, ACCUSED-APPELLANTS.

D E C I S I O N

QUISUMBING, J.:

On appeal is the decision^[1] dated January 29, 1997, of the Regional Trial Court, Quezon City, Branch 88, finding appellants herein Arnel Mataro and Nick Perucho guilty of murder, and sentencing each of them to suffer the penalty of *reclusion perpetua*, to indemnify the heirs of the victim, Enrique Castillo, P725,000.00 as actual damages and P1,000,000.00 as moral damages, and to pay the costs.

Two separate informations were filed against appellants, thus:

Q-93-41704 against accused Arnel Mataro

That on or about the 23rd day of October 1992 in Quezon City, Metro Manila, Philippines, the above-named accused, conspiring, confederating with other persons whose true identities, whereabouts and other personal circumstances of which have not as yet been ascertained and mutually helping one another, with intent to kill, with treachery, superior strength and evident premeditation, did, then and there, willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one SPO1 ENRIQUE CASTILLO, JR. Y BALBIN, by then and there shooting the latter with the use of firearms thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said SPO1 ENRIQUE CASTILLO, JR., Y BALBIN.

Contrary to law.

Q-93-48440 against accused Nick Perucho

That on or about the 23rd day of October, 1992, in Quezon City, Philippines, the above-named accused, conspiring and confederating with and mutually helping with his co-accused / ARNEL MATARO, who was then charged with the same offense in the Regional Trial Court, Branch 88, this City docketed as Crim. Case No. Q-93-41704, with intent to kill, with treachery, superior strength and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of SPO1 ENRIQUE CASTILLO, JR. Y BALBIN, by means then and there shooting the latter with the use of

firearms, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said SPO1 ENRIQUE CASTILLO, JR. Y BALBIN.

Contrary to law.^[2]

Initially, the information against Nick Perucho was filed in RTC, Branch 87, but upon motions of complainant Evangeline Castillo and Asst. City Prosecutor Ralph S. Lee, the two cases were consolidated. Both accused pleaded "Not Guilty" during their respective arraignment. Trial thereafter on the merits ensued.

The prosecution presented two eyewitnesses, Victor Nilo Fernandez and Reden Guzman.

Fernandez, a jeepney driver whose Cubao-Divisoria route passed along Magsaysay Blvd., declared that on October 23, 1992, at around 4:00 P.M., he saw SPO1 Enrique Castillo, Jr., stop a light brown Toyota Corona. Mataro and Perucho disembarked and talked to Castillo. After a while, Mataro and Perucho went to their car and returned with an armalite and a .45 cal. firearm. Castillo raised his hands and motioned the two accused to move along and forget their citation. The two accused shot him instead.^[3]

Guzman testified that on October 23, 1992 at around 4:15 P.M., the passenger jeepney he was riding stopped in front of SM Centerpoint. At the same time, he saw the two accused shoot SPO1 Castillo.^[4]

Dr. Juan Zaldariaga, the NBI medico-legal officer, testified that three gunshot wounds were inflicted upon the victim, one on the left side of the chest and two on the left side of the back. He said one of the wounds could have been inflicted while the victim was standing up, facing his assailant who was about three feet away. Another wound could have been inflicted while the victim was already in a supine position facing up with the assailant on top of the head of the victim. The third wound could have been inflicted when the victim was already lying face down.^[5]

SPO3 Jaime Santos testified that he was the one who handled the investigation of the case. He said that after the case was assigned to him, he immediately contacted Victor Nilo Fernandez and asked him whether he could still identify the two persons he saw shooting SPO1 Enrique Castillo. When Fernandez confirmed that he could, SPO3 Jaime Santos accompanied him first to the PNP jail in Camp Crame where Fernandez identified Mataro. They then proceeded to the Muntinlupa jail where Fernandez identified Perucho. Both identifications were made in line-ups.^[6]

The widow of the victim, Evangeline Castillo, testified on the expenses she incurred as a result of her husband's death.^[7]

The appellants interposed alibi and denial in their defense. They presented Moriето Bello who testified that he was with accused Mataro at around 4:00 P.M. to 5:00 P.M. on October 23, 1992. They were at the Villamor Vulcanizing Shop located between V.V. Soliven and SSS Village in Marikina where Mataro was having his jeep fixed.^[8]

Another witness for the defense, Amy Pangilinan, testified that she was with Mataro in the afternoon of October 23, 1992 with a certain Gemma Sunga. They went to Antipolo to buy a pig for her birthday. On their way home they had engine trouble. They went to a vulcanizing shop for at least one hour waiting for the jeepney to be fixed.^[9]

Appellant Mataro testified that on October 23, 1992, he went to Antipolo with Gemma Sunga and Amy Pangilinan to buy a pig for the latter's birthday. They left Fairview at past 12:00 noon. They reached Antipolo at around 3:00 P.M. and they left at around 5:00 P.M. The jeepney had engine trouble so they stopped at Villamor Vulcanizing Shop in Cupang, Antipolo for about an hour. He said that he was arrested by operatives of the PACC on December 21, 1992 on suspicion that he was a member of a kidnap for ransom gang. He admitted knowing Perucho since they were both bodyguards of Atty. Leonardo Laurente. He denied shooting SPO1 Castillo. During cross-examination, he testified that as a former military man he was given a machine gun but had returned it to their supply officer. He only met Perucho when he arrived in Cagayan.^[10]

Defense witness Arturo dela Cruz testified that he was with Perucho in Aklan on October 23, 1992 and that Perucho left Aklan only sometime in November of 1992.^[11]

Appellant Perucho testified that he was in Aklan from June 1992 until November of the same year. He said he worked for one Atty. Laurente as a bodyguard for the elections after the latter helped in his release from detention. He denied the accusation against him.^[12]

On January 29, 1997, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, premises considered, accused Arnel Mataro and Nick Perucho are hereby found GUILTY beyond reasonable doubt for the crime of murder, both to suffer the penalty of reclusion perpetua and to pay jointly and severally the heirs of Enrique Castillo the following: 1)P725,000.00 as actual damages; 2)P1,000,000.00 as moral damages; and 3) to pay the cost.

SO ORDERED.^[13]

The accused filed this appeal. Appellants alleged that the trial court erred in:

... CONVICTING THE ACCUSED APPELLANTS AND IN NOT ACQUITTING THEM:

(A) ON GROUNDS OF REASONABLE DOUBT; AND

(B) BY APPLYING THE "EQUIPOISE RULE."^[14]

The appellants question the credibility of Fernandez and Guzman. They aver that during the investigation, a certain Ebalde gave his statements to the police that the car used by the assailants was a gray Kia Pride. They also point out that the

witnesses of the prosecution did not agree on the number of persons riding the car which was stopped by Castillo. They likewise raise that during the initial investigation, the eyewitnesses described Mataro as a man between 35 to 40 years old. Mataro was only 24 years old at the time of the incident. Finally, they invoke the "equipoise" rule^[15] because their guilt had not been established beyond reasonable doubt.^[16]

The Office of the Solicitor General, for its part, asserts that the testimonies of the witnesses were positive, straightforward and unerring. The appellants were identified by Fernandez in two separate line-ups and during trial. Witness Guzman likewise identified them during the trial.

That Mataro was described as 35 years old is explained by Mataro's face which did not look a young 25.

On the "equipoise" rule, the OSG asserts that positive and unerring identification made by the witnesses rule out any erroneous identification, thus the "equipoise" rule need not be applied.^[17]

In *People vs. Teehankee, Jr.*, 249 SCRA 54 (1995), we enumerated the requisite for credible identification as follows:

- 1) the witness' opportunity to view the criminal at the time of the crime;
- 2) witness' degree of attention at that time;
- 3) the accuracy of any prior description given by the witness;
- 4) the level of certainty demonstrated by the witness at the identification;
- 5) the length of time between the crime and the identification; and
- 6) the suggestiveness of the identification procedure.^[18]

In our view, these requirements were met. We agree with the trial court when it said:

In the instant case, there is no question that both witnesses had the opportunity to view the incident as it unfolded before them with a degree of attention that allowed them to take in the important details and recall them clearly. The incident occurred in broad daylight (approximately 4:00 P.M.) in an intersection where witness Coronel, driving his passenger jeep which was temporarily on a standstill, waiting for the go signal from the traffic officer. Being a bare 3 meters away from the three men, it was expected that Co[r]onel had his attention focused on the traffic officer, alert and ready to move as soon as the signal is given. It was no coincidence for him to have watched with keenness the meeting that ended in a shooting. The same is true with witness De Guzman, a passenger riding in a jeepney about 9 to 10 meters from the scene. Passengers are wont to (sic) get curious when their vehicles are stalled