

FIRST DIVISION

[G.R. No. 128282, April 30, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TEODORO "JAY" I. GONZALES AND ENRICO "KOKO" SORIANO,
ACCUSED-APPELLANTS.**

D E C I S I O N

PARDO, J.:

Accused Teodoro "Jay" I. Gonzales and Enrico Soriano @ "Koko" appeal from the joint decision^[1] of the Regional Trial Court, Branch 127, Caloocan City finding each of them guilty beyond reasonable doubt of murder^[2] for the death of Froilan Manalo, and sentencing each to *reclusion perpetua* and to indemnify the heirs of the victim in the amount of P50,000.00, plus actual damages of P30,224.20; and of two (2) counts of frustrated murder^[3] against Rolando P. de Leon and Joselito V. Leoncio, sentencing each of them to two terms of an indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum, and to indemnify Rolando de Leon in the amount of P20,000.00, plus P3,000.00 as actual damages, and Joselito Leoncio in the amount of P20,000.00, and to pay the costs.^[4]

On January 23, 1995, Caloocan City Assistant Prosecutor Aurelio R. Ralar, Jr. filed with the Regional Trial Court, Caloocan City an Information for murder against Teodoro "Jay" I. Gonzales and Enrico Soriano @ "Koko" for the death of Froilan Manalo, the accusatory portion of which reads:

Criminal Case No. C-48399:

"That on or about the 19th day of September 1994 in Caloocan City, M. M. and within the jurisdiction of this Honorable court, the above-named accused, conspiring together and mutually helping one another, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously stab one FROILAN MANALO, thereby inflicting upon the latter serious physical injuries which injuries eventually caused his death.

CONTRARY TO LAW."^[5]

On the same date, Assistant City Prosecutor Aurelio R. Ralar, Jr. filed two separate information for frustrated murder against Teodoro "Jay" I. Gonzales and Enrico Soriano @ "Koko" for the serious physical injuries inflicted on Rolando P. de Leon and Joselito V. Leoncio, the accusatory portions of which read:

Criminal Case No. C-48400:

"That on or about the 19th of September 1994 in Caloocan City, M. M. and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously stab one ROLANDO DE LEON, thereby inflicting upon the latter serious physical injuries, thus performing all the acts of execution as a consequence of which it would have produce the crime of Murder, but which nevertheless did not produce it by reason or causes independent of the will of the herein accused, that is, due to the timely, able and efficient medical attendance rendered to the victim at the Jose Reyes Memorial Medical Center which prevented his death.

CONTRARY TO LAW."^[6]

Criminal Case No. C-48401:

"That on or about the 19th day of September 1994 in Caloocan City, M. M. and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, with deliberate intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously stab one JOSELITO LEONCIO, thereby inflicting upon the latter serious physical injuries, thus performing all the acts of execution as a consequence of which it would have produce the crime of Murder, but which nevertheless did not produce it by reason or causes independent of the will of the herein accused, that is, due to the timely, able and efficient medical attendance rendered to the victim at the Jose Reyes Memorial Medical Center which prevented his death.

CONTRARY TO LAW."^[7]

On February 28, 1995, the trial court arraigned accused Teodoro "Jay" I. Gonzales and Enrico "Koko" Soriano. They pleaded not guilty to all charges.^[8] Thereafter, the trial court conducted simultaneous trial of the cases.

Past midnight of September 19, 1994, Joselito V. Leoncio, Froilan Manalo, and Rolando P. de Leon went to Atoy King Pub House, located along Samson Road, Caloocan City, just opposite the Caloocan, PNP Police Headquarters. Inside the pub house, Joselito saw accused Teodoro I. Gonzales and Enrico Soriano, together with an unidentified companion. Enrico was wearing a yellow t-shirt, while Teodoro was clad in white sando and short pants. Because accused Enrico was a former schoolmate at A. Bonifacio High School (now Polytechnic College), and he also knew accused Teodoro, who was a son of the former barangay captain of the place where he resided before, Joselito proceeded to their table and chatted with them. After two (2) minutes, he rejoined his companions Froilan and Rolando who were seated at a table next to that of accused Teodoro and Enrico.

Around 1:00 in the morning, and after downing two (2) bottles of beer each, they left the place. When they left, Joselito noticed that the two (2) accused were no longer around.^[9]

While Joselito, Froilan, and Rolando were on their way home walking along Gen. San Miguel St., Caloocan City, in front of Polytechnic College, accused Teodoro suddenly appeared from the direction of Bisig ng Kabataan St., Caloocan City. Armed with a fan knife, accused Teodoro attacked Rolando, hitting him at the middle portion of the chest. Rolando noticed another person behind Teodoro, but he failed to recognize him because it was dark.^[10] Teodoro made a second attack on Rolando which the latter evaded. Teodoro turned to Froilan and hit him in the stomach.

Teodoro attacked Joselito next. He sustained a wound at the right side of the stomach. He fought back. He picked a stone from the ground and threw it at Teodoro, who retaliated and stabbed Joselito a second time at the left side of the body. While stooping down to pick up the stone, Joselito saw Enrico standing behind the Meralco post some four (4) meters away from where they were. He noticed that Enrico was acting strangely, looking at the back and front direction, as if expecting somebody to come along.^[11] Thereafter, Teodoro, still carrying the knife, and Enrico, fled towards the direction of Bisig ng Kabataan St.^[12]

Rolando managed earlier to run away. While fleeing from the scene of the crime, Rolando saw the other accused, Enrico Soriano standing behind the Meralco post 4 meters away and acting as the look out. On the way, Rolando met *barangay tanods* and sought their assistance. The *barangay tanods* rushed the victims to the Caloocan General Hospital where they were given first-aid treatment. From Caloocan General Hospital, Joselito and Rolando were transferred to Jose Reyes Memorial Medical Center, while Froilan, who was in very critical condition, was transferred to the MCU Hospital, where he died while undergoing operation.

Barangay tanod Faustino Barredo proceeded to the scene of the crime. Finding nothing, he headed towards Samson Road and met accused Teodoro and Enrico at the railroad tracks near Atoy King Pub House. When *Barangay Tanod* Barredo approached accused Teodoro to invite him for questioning, the latter resisted and uttered "*tabla-tabla lang*."^[13]

On October 3, 1994, Joselito and Rolando, assisted by Marissa Manalo, sister of deceased Froilan, reported the incident to the barangay authorities, as well as to the Caloocan City Police Station. PO3 Feliciano Almojuela, Jr. took their statements and affidavits. All the victims pointed to Teodoro "Jay" Gonzales and to "Rico" of Bisig ng Kabataan St. as their assailants.

On October 5, 1994, dissatisfied with the investigation conducted by Caloocan City policemen, Joselito and Rolando went to the National Bureau of Investigation (NBI) and executed a statement before NBI agent Arnel Garcia. They identified the assailants as Teodoro "Jay" Gonzales and one Rico *alias* Koko.

In the morning of January 31, 1995, while Joselito was recuperating at his house in Paombong, Bulacan, the parents of accused Teodoro and Enrico arrived. Accompanied by five unidentified persons, they asked him if it was possible for him not to testify in the criminal cases, adding that "[I]kaw rin, may pamilya ka."^[14]

Joselito took this as a threat as they even told him that win or lose, they would return for him. Thus, he acceded to their request. Before leaving their house, the parents of the accused assured him that his hospitalization expenses would be reimbursed. On February 3, 1995, the incident was recorded in the police blotter of Paombong Police Station.^[15]

Dr. Ronnie Torres, the surgeon who performed the operation on Froilan Manalo testified that the victim was in critical condition when the operation was conducted. He sustained a 2.5 cm. single stab wound at the left sub-coastal area, which proved to be fatal. Froilan Manalo expired on the operating table at exactly 5:20 in the morning of September 19, 1994.^[16] Based on the death certificate, the cause of Froilan's death was:

"CAUSES OF DEATH:

"Immediate cause : a. Hypovolemic shock

"Antecedent cause : b. Intra-abdominal injuries

"Underlying cause : c. Stab wound, abdomen"^[17]

Testifying on the civil aspect of the case for the death of Froilan Manalo, his sister, Marissa Manalo declared that the family incurred expenses in the total amount of P30,224.60.^[18]

Based on the medico-legal certificate issued by Dr. Rodel P. Galang, attending physician at the Jose Reyes Memorial Medical Center, Joselito V. Leoncio sustained the following injuries:

"Sutured wound, 2.0 cm., subcostal area, right

"Sutured wound, 1.0 cm., 10th ICS, MAL, left

"Diaphragmatic injury, 2 cm., with active bleeding;

"(+) AB"^[19]

For this, Joselito paid P8,000.00 for his six (6) days hospitalization at the Jose Reyes Memorial Medical Center, of which only P3,000.00 was supported by receipts.^[20]

Rolando P. de Leon sustained a "stab wound, 2.0 cm., 6th ICS, PSL, right (+) AB; lacerated wound, 5 cm., infrazygomatic area, left; lacerated wound, 5 cm., parieto-temporal area, left,"^[21] and spent P5,000.00 for medicine and hospitalization expense. He failed to present the corresponding receipts.

In their defense, accused Teodoro "Jay" I. Gonzales and Enrico "Koko" Soriano both interposed denial and *alibi*.

Accused Teodoro I. Gonzales testified that at about 10:00 in the evening of September 18, 1994, together with companions, Ronnie Soriano and another named Bobby, they went to Atoy King Pub House to drink beer. At around 11:45 in the evening, the group of Froilan, Joselito and Rolando arrived at the same pub house. A few minutes after, Enrico noticed that Rolando was engaged in an argument with a *balut* vendor, with Rolando ending up returning the *balut* to the vendor.^[22] Around 12:30 the next morning, they left the pub house. After thirty (30) minutes, accused Teodoro and Enrico also left the pub house. Their unidentified companion was left behind at the pub.^[23]

On the way home, while walking near the railroad tracks, accused Teodoro and Enrico met Remigio Recaya and the members of the *barangay tanod*. They were

questioned about the stabbing incident that occurred earlier in front of Polytechnic College. Accused Teodoro and Enrico denied any knowledge about it. They were bodily frisked, but nothing was found in their persons.^[24] Thereafter, they were invited to the barangay outpost for questioning. In the course of the investigation, *Barangay Tanod* Barredo collared accused Teodoro by the neck and said "*baka kasama kayo*," to which Teodoro responded "*wala kaming alam diyan, tabla-tabla tayo*."^[25] Failing to elicit anything from the accused, *Barangay* Captain Ely Natividad permitted them to go home.

Before going home, accused Enrico passed by the house of Froilan Manalo to inform his mother that Froilan had been stabbed. However, his mother had been informed about the incident.^[26]

The defense presented PO3 Feliciano Almojuela of the Caloocan City Police Station to show that the victims failed to identify their assailants when they were initially questioned at the hospital.^[27] It was only on October 3, 1994 that the victims, together with Marissa Manalo, sister of one of Froilan Manalo, reported the incident to the Caloocan City PNP Station and identified their assailants as accused Teodoro and Enrico.^[28]

Benjamin Bring, Joselito's and Rolando's uncle denied that a complaint for threat had been lodged against him and the parents of the accused. He admitted that on January 31, 1995, he and the parents of the accused together with two others went to Joselito's house in Paombong, Bulacan to inquire from the latter why he was implicating innocent persons, to which Joselito did not reply.^[29]

When questioned why he was giving a testimony adverse to that of his nephews,^[30] Benjamin replied that he was not testifying against them, but merely telling the truth. He loved his nephews and his relationship with their respective families was cordial.^[31]

After due trial, on January 10, 1997, the trial court rendered a decision finding accused Teodoro "Jay" I. Gonzales and Enrico Soriano @ "Koko" guilty of murder for the killing of Froilan Manalo^[32] and of two counts of attempted murder^[33] for the serious physical injuries inflicted on Joselito Leoncio and Rolando Manalo. The trial court relied on the straightforward and categorical testimonies of prosecution witnesses and rejected accused's defense of denial and *alibi*. The trial court held that *alibi* could not prevail over the positive identification of the accused by the prosecution witnesses. The dispositive portion of the decision reads as follows:

"WHEREFORE, premises considered and the prosecution having established the guilt beyond an iota of doubt of the Accused TEODORO GONZALES and ENRICO SORIANO, and in the absence of any modifying circumstance, hereby sentences them as follows:

"1. In Crim. Case No. 48399 for Murder- to suffer each the penalty of reclusion perpetua; to indemnify each the heirs of the deceased FROILAN MANALO the amount of P50,000.00 plus actual damages of P30,224.20;

"2. In Crim. Case No. 48400- for Attempted Murder to suffer each the indeterminate prison term of from eight (8) years and one (1) day of Prison Mayor as minimum to seventeen (17) years, four (4) months and