

## FIRST DIVISION

[ G.R. No. 125936, February 23, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RICARDO DELA CRUZ ALIAS PAWID, MANUEL DELA CRUZ ALIAS  
PAWID, DANILO DELA CRUZ AND JOHN DOE ALIAS HENRY  
BALINTAWAK AND ORLANDO PADILLA Y MENDOZA, ACCUSED.**

**RICARDO DELA CRUZ ALIAS PAWID, ACCUSED-APPELLANT.**

### D E C I S I O N

**PARDO, J.:**

The case before the Court is an appeal taken by Ricardo Dela Cruz *alias* Pawid from the decision of the Regional Trial Court, Branch 20, Malolos, Bulacan<sup>[1]</sup> convicting him of robbery with homicide and sentencing him to *reclusion perpetua* and to indemnify the heirs of the victim Glicerio Cruz in the amount of fifty thousand pesos (P50,000.00) as civil indemnity for the death of the victim, fifty seven thousand eighty five pesos (P57,085.00) as reimbursement of funeral expenses, and twenty five thousand (P25,000.00) as moral damages.<sup>[2]</sup>

On August 18, 1993, Assistant Provincial Prosecutor Rita M. Gammad of Malolos, Bulacan (assigned to Branch 20) filed with the Regional Trial Court, Malolos, Bulacan an information reading:

"The undersigned Asst. Provincial Prosecutor accuses Ricardo dela Cruz *alias* Pawid, Manuel dela Cruz *alias* Pawid, Danilo dela Cruz and one John Doe *alias* Henry Balintawak, as Principals, and Orlando Padilla y Mendoza, as accessory-after-the-fact, of the crime of robbery with homicide, penalized under the provisions of Art. 294, par. 1 of the Revised Penal Code, committed as follows:

That on or about the 11<sup>th</sup> day of May 1993, in the municipality of Bocaue, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Ricardo dela Cruz *alias* Pawid, Manuel dela Cruz *alias* Pawid, Danilo dela Cruz and one *alias* Henry Balintawak, as principals, conspiring and helping one another, did then and there willfully, unlawfully and feloniously, with intent of gain and by means of force, violence and intimidation of person, take, rob and carry away with them one (1) Yamaha RS motorcycle bearing plate no. CZ-2932 with side-car valued at P30,000.00 driven and owned by Glicerio Cruz; that by reason or on the occasion of the said robbery and for the purpose of enabling them to take, rob and carry away the said motorcycle with sidecar, the herein accused in furtherance of their conspiracy and with evident premeditation and treachery and taking advantage of their superior strength, did then and there willfully,

unlawfully and feloniously attack, assault and stab with bladed instruments said Glicerio Cruz, driver of the said Yamaha RS motorcycle, thereby inflicting upon him serious physical injuries which directly caused his death; That the said accused Orlando Padilla y Mendoza, without having participated in the said crime either as principal or accomplice, but having knowledge of the commission of the said crime, did then and there willfully, unlawfully and feloniously take part subsequent to its commission by harboring, concealing and assisting in the escape of said accused *alias* Henry Balintawak.

CONTRARY TO LAW."<sup>[3]</sup>

At the arraignment on September 13, 1993, accused Ricardo dela Cruz, Manuel dela Cruz, and Orlando Padilla y Mendoza pleaded not guilty.<sup>[4]</sup> Danilo dela Cruz and John Doe *alias* Henry Balintawak remained at large. Trial on the merits ensued.

The facts are as follows:

On May 11, 1993, at around 8:00 in the evening, part-time tricycle driver Glicerio Cruz left his house in Bocaue, Bulacan on board his tricycle, a Yamaha motorcycle with stainless sidecar marked "Porsche" at the back, for another day's work of plying his route.

At around 10:00 in the same evening, George Taylan who was standing near a gate along Bolina St., Lolomboy, Bocaue, Bulacan noticed a stainless tricycle marked "Porsche" speeding past him driven by accused John Doe *alias* Henry Balintawak. Following closely behind was another tricycle, with accused Danilo dela Cruz driving and accused Ricardo dela Cruz riding in the passenger car. Taylan recognized the second tricycle as the one owned by accused Ricardo dela Cruz.

Moments later, the three accused stopped in front of the house of co-accused Manuel dela Cruz and called him to get a tool box.<sup>[5]</sup> Afterwards, all the accused headed towards the field a few meters away from the house of accused Manuel dela Cruz. Curious as to what the men were up to, Taylan followed them to the field.

From a distance of fifty meters, Taylan witnessed the four accused dismantling the sidecar of the tricycle marked "Porsche". The scene was illuminated by a flashlight brought by accused John Doe *alias* Henry Balintawak. The dismantling process took twenty minutes.<sup>[6]</sup> Subsequently, accused John Doe *alias* Henry Balintawak rode the motorcycle, minus the sidecar, towards the road opposite Bolina St., while the three other accused rode the tricycle of accused Ricardo dela Cruz and headed down Bolina Street. The dismantled sidecar was left in the field.

On the same night, at around 10:00 in the evening, a policeman knocked at the door of Yolanda Cruz' house and informed her that her husband, wearing white t-shirt, *maong* pants and white shoes, and carrying a driver's license bearing the name of Glicerio Cruz, was found dead. Yolanda requested her children to go to the Dra. Yanga Hospital, as directed by the policeman, to identify the body. They confirmed that the deceased was indeed Glicerio Cruz.

The next day, on May 12, 1993, Dr. Rosauo Villarama, municipal physician of Angat,

Bulacan conducted a *post mortem* examination of the deceased Glicerio Cruz, and reported that the deceased sustained seven lacerated wounds, two stab wounds, contusions with hematoma, abrasions, fractured skull and fractured ribs.<sup>[7]</sup> Dr. Villarama concluded that the cause of death consisted of cerebral hemorrhage due to multiple fracture of the skull, traumatic injury, anterior chest wall, left, with injury to left pleura, and multiple stab wounds.<sup>[8]</sup>

On May 31, 1993, several policemen brought George Taylan into custody for questioning in relation to the reported robbery with homicide that transpired on May 11, 1993. George Taylan executed a sworn statement, giving the names of the persons whom he witnessed dismantling the stolen tricycle. He knew accused Ricardo dela Cruz because the latter collected house rentals from him. He was also familiar with accused John Doe *alias* Henry Balintawak since the latter would sometimes stay in the same house he was renting from Ricardo dela Cruz.

By virtue of Taylan's sworn statement, policemen formed a team to search for the missing motorcycle of deceased Glicerio Cruz and to apprehend the suspects in the commission of the crime. Subsequently, policemen arrested accused Ricardo dela Cruz, who was plying his tricycle along the streets of Lolomboy, Bocaue, Bulacan. Upon questioning, accused Ricardo dela Cruz admitted that he knew where the stolen motorcycle was located and accompanied the policemen to Tarlac.<sup>[9]</sup> The motorcycle, already in a cannibalized state, was recovered and thereafter turned over to Yolanda Cruz, wife of deceased owner. Policemen were able to apprehend accused Manuel dela Cruz, but they failed to locate accused John Doe *alias* Henry Balintawak and Danilo dela Cruz.

On his part, accused Ricardo dela Cruz alleged that on May 11, 1993, he was in Barangay Capihan, Tarlac, Tarlac in the house of his parents-in-law, taking care of his children the entire day.<sup>[10]</sup> He emphasized that he was a pastor of the *Iglesia ng Diyos kay Kristo* Jesus and incapable of being involved in a robbery and killing.

According to Ricardo, on May 14, 1993, he visited his brother Manuel in Bocaue, Bulacan to collect house rentals. Manuel then asked Ricardo to sell a motorcycle entrusted to him by Henry Balintawak, owner of the motorcycle, who would provide its registration documents at a later time.<sup>[11]</sup> Ricardo agreed to help sell the motorcycle, for a percentage of the proceeds of the sale. He then brought the motorcycle to Tarlac and dismantled it for repairs in order to sell it at a better price.<sup>[12]</sup> He returned to Bocaue, Bulacan five days later to procure the registration papers of the motorcycle. He failed to obtain the documents and left the next day for Tarlac.

On October 13, 1995, after due trial, the trial court rendered decision,<sup>[13]</sup> the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the Court finds that:

"(a) RICARDO DELA CRUZ is guilty beyond reasonable doubt of the crime of robbery with homicide under Art. 294, par. 1 of the Revised Penal Code and is sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the victim Glicerio Cruz, the following sum of money:

- "1. P50,000.00 as civil indemnity for the death of the victim;
- "2. P57,085.00 for funeral expenses;
- "3. P25,000.00 for moral damages.

"(b) MANUEL DELA CRUZ is found guilty as an accessory to the crime of simple robbery and is sentenced to an indeterminate prison term of four (4) years, two (2) months and one (1) day to six (6) years, the maximum period of *prision correccional*, in view of the aggravating circumstance of nighttime.

"(c) ORLANDO PADILLA, for failure of the prosecution to prove the guilt of the accused as an accessory-after-the-fact, accused is hereby ACQUITTED of the crime charged in the Information.

"As regards the other accused Danilo dela Cruz and John Doe *alias* Henry Balintawak, who are still at large, let standing warrant of arrest be issued against them furnishing a copy thereof the Director of NBI, the Director General Camp Crame, and the Station Commanders of Bocaue, Bulacan and Tarlac, Tarlac, for their information and appropriate action."

"SO ORDERED.

"Malolos, Bulacan, October 13, 1995.

"AMADO M. CALDERON

"Acting Presiding Judge"[14]

Hence, this appeal filed by Ricardo dela Cruz.[15]

Accused-appellant Ricardo dela Cruz insisted that he was in Tarlac on May 11, 1993, the night when the crime was committed, and not in Bulacan as testified to by prosecution witness George Taylan. He also alleged that George Taylan had a motive to testify falsely against him, since Taylan was in arrears for house rentals and in danger of being evicted by accused-appellant.

Alibi is considered with suspicion and received with caution, not only because it is inherently weak and unreliable but also because it is easily fabricated and concocted. It is incumbent upon accused to prove that he was at another place when the felony was committed, and that it was physically impossible for him to have been at the scene of the crime at the time it was committed.[16] In this case, accused-appellant failed to substantiate his claim that he was not in Bulacan at the time of the commission of the crime. No other witness or evidence pointed to the fact that he was in Tarlac on the night in question.

Furthermore, the defenses of alibi and denial are discredited because of the positive identification of the accused by a credible witness.[17] Prosecution witness George Taylan testified that he saw accused-appellant Ricardo dela Cruz in Bocaue, Bulacan as one of those who detached the sidecar of the tricycle of deceased Glicerio Cruz on the night of May 11, 1993. Despite accused-appellant's efforts to discredit the testimony of George Taylan, the trial court gave credence to his testimony. We find