

SECOND DIVISION

[G.R. No. 125280, March 31, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILSON SUITOS, ACCUSED-APPELLANT.**

D E C I S I O N

BELLOSILLO, J.:

WILSON SUITOS was found guilty of murder and sentenced to *reclusion perpetua* for the killing of one Jesus Ylarde. He was also ordered to indemnify the heirs of the deceased, jointly and severally with his co-accused Alvaro Suitos,^[1] the sum of P11,575.00 for actual damages, P320,000.00 for loss of earnings of the victim, P50,000.00 for death indemnity, and P20,000.00 for moral damages, without subsidiary imprisonment in case of insolvency, and to pay costs.^[2]

Accused-appellant Wilson Suitos now challenges his conviction before this Court.

Jovy Ylarde, daughter of the deceased Jesus Ylarde, narrated that on 5 September 1987, at around 5:00 o'clock in the afternoon, her father and the rest of the family took their dinner in their house in Umingan, Pangasinan. After supper, Jesus went out of the house to pass the time in front of their store annexed to their house. Jovy followed him outside and talked with him. While they were conversing three (3) armed men suddenly appeared from the adjacent ice cream parlor and fired successively at her father, Jesus Ylarde, who died on the spot. Jovy identified the three (3) gunmen as Wilson Suitos, Alvaro "Barang" Suitos and Boy Villar. According to her, Wilson shot her father first hitting him on the forehead, followed by Alvaro and Boy. Everything happened in a matter of seconds. As the three (3) assailants ran towards Poblacion West, a tricycle with a certain Rey Suitos and a Vic Suitos on board, followed them. She was steadfast in her belief that the tricycle bearing Rey and Vic Suitos was a "back-up" vehicle as the suspects were all blood relatives. Vic Suitos is the son of Wilson Suitos who is the grandfather of the brothers Rey and Alvaro Suitos. When the policemen arrived some five (5) minutes later, Jovy pleaded with them to go after the escaping gunmen; however, they returned empty-handed.

Vivian, another daughter of Jesus Ylarde, also witnessed the brutal killing. According to her, she was inside their store a few meters away from her father when the latter was gunned down. She saw Wilson Suitos, Alvaro Suitos and Boy Villar approached her unsuspecting father and killed him. More shots rang out seconds later. When her father fell, she saw Wilson and Alvaro standing in front of him. After Boy Villar fired at her father, the three (3) ran towards the west and disappeared.

At around 8:30 in the evening on the same day, Dr. Thelma Busto autopsied the cadaver of Jesus Ylarde. At the trial, Dr. Busto testified on her post-mortem findings: (a) gunshot wound on the frontal area of the forehead mid-area as point of entrance, with no point of exit; and, (b) gunshot wound on the abdomen,

hypogastric region, right superficial. On the basis of her expert opinion, the gunshot wound on the forehead was fatal as it damaged the brain, while the wound on the abdomen was merely a graze wound, hence, not fatal.

In his defense, accused-appellant Wilson Suitos testified that on 5 September 1987, at about 6:00 o'clock in the afternoon, he and his friends arrived on board a jeepney at the house of his godfather, ex-Mayor Francisco Lopez, in the Poblacion of Umingan to sell him palay and also buy gasoline from him. They were all wearing sports outfit as they earlier played basketball in a nearby barangay. While he (Wilson) was talking with his godfather in front of the latter's gate, they heard three (3) gunshots. Francisco Lopez advised the group to stay behind as he would investigate. They waited until all the sacks of palay had been unloaded from the jeepney before they left for the public market. On their way, their jeepney could not proceed as the road was blocked by curious onlookers milling around the place. Whereupon they alighted from their vehicle and joined the crowd. They learned from Reynaldo Nuesca, an uncle-in-law of accused-appellant, that Jesus Ylarde was gunned down. Some five (5) minutes later they continued on their way.

According to accused-appellant, he was not investigated for the killing of Jesus Ylarde. In fact it was only in Manila sometime in October 1987 when he learned from his father that he was being charged for the slaying of Ylarde. His father advised him not to surrender because their lives might be in danger. Sometime in 1985 his eleven (11)-year old sister, his grandmother and four (4) others were "massacred" inside their canteen by two (2) individuals, one of whom was identified as Willy Ylarde, a nephew of Jesus.^[3] The two (2) assailants were eventually apprehended, charged and convicted by the trial court. Wilson explained that "we" (referring to himself and his co-accused) were implicated in the murder of Jesus Ylarde because of his father's adamant refusal to settle the above-mentioned case. Besides, he and his co-accused were being suspected of having revenged the "massacre" that occurred in 1985 and fearing for their lives they opted not to surrender voluntarily to the authorities. However, he was arrested in 1994 by virtue of a standing warrant issued by the trial court on 24 September 1987.

To corroborate the testimony of Wilson Suitos, ex-Mayor Francisco Lopez testified that on 5 September 1987, between 5:30 to 6:00 o'clock in the afternoon, accused-appellant Wilson Suitos together with Boy Villar and several others dropped by his residence to sell palay to his son. Wilson greeted him and they talked for a while in front of the gate. While conversing they heard several bursts of gunfire from the southern portion of his house and saw people running about. Since he became curious he joined them. At the crime scene, he saw Jesus Ylarde lying on the ground bathed in his own blood. He asked the daughters of the victim if they knew who the killers were and they answered in the negative. They were hysterical. When he returned to his house, accused-appellant and his companions had already left.

SPO1 Felimon Bautista testified that upon investigation he learned from the bystanders and Jovy Ylarde that the three (3) assailants were young men, small and barefooted. Recorded in the police blotter are the following entries - ^[4]

Entry No. 593, dated 05 September 87, 051820 hours meaning 7:20 in the evening: "Several burst of firearm overheard somewhere in Paradaan, xxx and thereafter a telephone call was received informing