

## FIRST DIVISION

[ G.R. No. 123299, September 29, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SANTIAGO CARUGAL AND EFREN ESPINOSA, JR., ACCUSED,**

**SANTIAGO CARUGAL, ACCUSED-APPELLANT.**

### D E C I S I O N

**KAPUNAN, J.:**

This is an appeal from the Decision,<sup>[1]</sup> dated July 21, 1995, of the Regional Trial Court, Branch 72, Malabon, Metro Manila, convicting Santiago Carugal and Efren Espinosa, Jr. of the crime of robbery with homicide under an amended information which reads as follows:

That on or about the 27th day of December 1994, in the Municipality of Navotas, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a (sic) bladed weapons, conspiring, confederating and mutually helping with (sic) one another, with intent to gain, did then and there willfully, unlawfully and feloniously by means of violence and intimidation of person of one PO1 Fernando Salao y Liwanag, and forcibly take, robe (sic) and carry away from the said victim one (1) Super 38 caliber Pistol marked Llama, loaded with bullets with Serial No. 120928 worth P8,000.00 belonging to said PO1 Fernando Salao, and in the course thereof on the occasion of the said robbery said accused, with intent to kill, did then and there willfully, unlawfully and feloniously stab with the said weapon PO1 Fernando Salao, hitting the victim on his body, thereby inflicting upon the victim stab wounds which caused his immediate death.

CONTRARY TO LAW.<sup>[2]</sup>

Only appellant Santiago Carugal and his co-accused Efren Espinosa, Jr. were arrested. The two John Does remained unknown and at large up to the present. Accused Carugal and Espinosa, Jr. entered a plea of "not guilty" to the charge against them.<sup>[3]</sup> Thereupon, trial ensued.

The prosecution relied heavily on the testimony of Leonilo Apostol, driver of the passenger jeepney held up by four of its passengers. Apostol testified that at about 7:30 in the evening of December 27, 1994, he was driving a loaded passenger jeepney along North Bay Boulevard, Navotas. Apostol came from Divisoria and was heading for Malabon.<sup>[4]</sup>

Upon reaching the North Bay Boulevard Branch of Metrobank, one of its passengers announced a holdup. There were four hold-uppers who were armed with bladed

weapons. One was seated behind the driver, the second in the middle part of the jeepney while the other two were on the rear end. Apostol later identified the person seated behind him as appellant Santiago Carugal and the person seated in the middle as Efren Espinosa, Jr. Upon the announcement, Apostol turned his head towards the back portion of the jeepney and saw one of the passengers being stabbed. He overheard one of the hold-uppers say, "pare may pulis dito." Espinosa, Jr. snatched the gun tucked from the victim's waistline, poked it on Apostol's head and said, "pare bilisan mo." Apostol cursed the hold-upper and asked where they were going. The hold-upper seated behind him poked a knife at Apostol and ordered him to speed up.<sup>[5]</sup>

With the victim slumped on the jeepney's floor, the hold-upper poked the gun at the other passengers who started to jump out of the jeepney. The holduppers finally alighted at Bypel C-3 Road. Apostol subsequently brought the victim to the Tondo General Hospital where he died despite prompt medical attention. An identity check from the victim's wallet at the hospital revealed that the deceased policeman was PO1 Fernando Salao from Camp Crame. Apostol later proceeded to the policeman's address but failed to get in touch with anyone.<sup>[6]</sup> On December 28, 1994, Apostol executed a sworn statement<sup>[7]</sup> regarding the incident before the Navotas police.

On February 3, 1995, following a phone call from the police headquarters, Apostol identified Carugal and Espinosa, Jr. from a police line-up at the Navotas Police Station as among the hold-uppers who held them up on the night of December 27, 1994. He executed a second sworn statement<sup>[8]</sup> regarding his identification of the accused herein from the line-up.

Accused-appellant Santiago Carugal and Efren Espinosa, Jr. banked on the defense of alibi and denial.

Santiago Carugal testified that at about 6:00 in the evening of December 27, 1994, he was with his co-porters Nilo Miscala and Virgilio Villegas at the Navotas Fishport. They were watching the parking space for their employer, Mr. Omar Tobias. When the latter arrived from Santa Cruz, Laguna at about 6:30 that evening, he bought sixty (60) tubs of fish which accused-appellant and his co-porters loaded into their employer's jeep until 2:30 the next morning.<sup>[9]</sup>

In the early morning of January 30, 1995, Santiago Carugal was in the company of Allan Galang, Bong Esponilla and Efren Espinosa, Jr. Carugal had just met his co-accused Espinosa, Jr. the previous day when the latter was introduced by Esponilla on the occasion of the town fiesta in Sto. Niño, Navotas, Manila.<sup>[10]</sup> They were walking along Smokey Mountain to fetch Lilia, sister of appellant's wife at the Badges Restaurant in Pritil, Tondo when they were interrupted and arrested for vagrancy by the *barangay tanod*. From the San Rafael Detachment where the group was brought, they were transferred to Precinct 1, Pritil, Tondo and then finally to the Navotas Police Headquarters where they were allegedly forced to admit the killing of PO1 Fernando Salao.<sup>[11]</sup>

While in detention, a jeepney driver by the name of Leonilo Apostol, came over the station. A line-up of seven (7) persons was formed. A detainee by the name of Ariel Alinsunurin and appellant's co-accused Efren Espinosa, Jr. were singled out by

Apostol.<sup>[12]</sup>

Nilo Miscala, co-porter of Carugal at the Navotas Fishport, corroborated appellant's alibi. He affirmed that Carugal was in their company at around 6:00 in the evening of December 27, 1994 watching the parking space for Mr. Omar Tobias, their employer of six (6) years. They completed loading the sixty (60) fish tubs bought by their employer at around 2:30 to 3:00 the following morning.<sup>[13]</sup>

The defense also presented SPO2 Augusto Mateo who testified that Carugal and Espinosa, Jr. were fall guys, innocent of the charge imputed to them. According to Mateo, he was the investigator on duty when a robbery holdup in front of Sulpicio Lines, Navotas transpired on March 27, 1995. He recovered a .9 mm caliber Llama with Serial No. 120928 belonging to PO1 Fernando Salao together with two spent shells from the same firearm. One of the holduppers was identified as Jaime Nablo y Abarquez, also of Sitio Sto. Niño, Navotas, Manila who was killed in a gun battle with the police.<sup>[14]</sup> The firearm was later referred to the National Bureau of Investigation (NBI) for ballistic examination.<sup>[15]</sup>

Accused Efren Espinosa, Jr., for his part, testified that he could not have committed the crime alluded to him because he was in Sumaraga, Samar from September 15, 1994 until his return to Manila in the morning of January 29, 1995. That same afternoon, he proceeded to a fiesta celebration at Sitio Sto. Niño, Navotas, Manila, in the house of a certain "Bong." It was there that he was introduced to appellant Santiago Carugal. At around 2:00 in the morning of January 30, 1995, he was arrested with appellant Carugal while walking along Smokey Mountain. They were initially charged with vagrancy but were later accused of robbery with homicide for the killing of PO1 Fernando Salao.<sup>[16]</sup>

On July 21, 1995, the trial court rendered judgment against the accused, to wit:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Santiago Carugal and Efren Espinosa, Jr. guilty beyond reasonable doubt of the crime of robbery with homicide and they are each hereby sentenced to the prison term of reclusion perpetua, together with all the accessory penalties thereof.

Accused Carugal and Espinosa are also ordered to indemnify the heirs of their victim the following amounts.

- a.) P50,000.00 for the loss of the victim's life;
- b.) P95,000.00 for the funeral and burial expenses of the victim;
- c.) P50,000.00 by way of moral damages for the pain and anguish they suffered for his untimely death.

Costs against the two (2) accused.

Only accused-appellant Santiago Carugal interposed an appeal to this Court. In his brief, accused-appellant raised the following errors allegedly committed by the trial court: