

SECOND DIVISION

[G.R. No. 113787, January 28, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CEFERINO GUILLERMO, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from a decision^[1] of the Regional Trial Court of Alfonso Lista, Ifugao finding accused-appellant Ceferino Guillermo guilty of murder complexed with frustrated murder and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify Michael de la Cruz and the heirs of Ronnie de la Cruz, and to pay the damages.

The information against accused-appellant alleged —

That on or about 8 o'clock in the evening of December 15, 1991, at Barangay Uban, Aguinaldo, Ifugao Province, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with the use of treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously shot Ronnie de la Cruz which caused the instant death of the latter which bullet perforated the body of said victim and hit Michael de la Cruz which would have caused his death were it not for the timely medical treatment rendered to him.

In its decision, the trial court found the following facts:

Accused-appellant Ceferino Guillermo is a second-degree cousin of the deceased Ronnie de la Cruz.^[2] Before her marriage to accused-appellant, Carmen Guillermo and deceased Ronnie de la Cruz were friends. After the marriage, accused-appellant suspected Carmen to be carrying on an illicit relationship with Ronnie de la Cruz.^[3] For this reason, accused-appellant harbored a grudge against Ronnie. Ronnie's father, Eusebio de la Cruz, Sr., tried to reconcile the cousins and sought the help of Barangay Chairman Carlos Dinamman, but their efforts were unsuccessful.^[4] In fact, accused-appellant and deceased had an altercation because of some utterances made by the latter.^[5]

To prevent a similar incident, Eusebio de la Cruz, Sr. sent his son Ronnie to live with the latter's aunt in Tubtubob, Alfonso Lista, Ifugao.^[6] The elder de la Cruz feared for the life of his son. After a year, however, Ronnie returned home to help his father

tend their farm.^[7]

On the evening of December 15, 1991, at around 8 o'clock, a fellowship was held in the premises of the Pentecostal Church of Ubao, Aguinaldo, Ifugao.^[8] Among those present were Ronnie de la Cruz, Eusebio de la Cruz, Jr., Michael de la Cruz, and Jeny Bumagat.

Ronnie and Michael de la Cruz went out of the church to relieve themselves.^[9] But after doing so, they did not go back and just remained outside. Suddenly, accused-appellant appeared and shot Ronnie point blank with a Garand rifle.^[10] Ronnie was hit on the right breast and the upper part of his thigh.^[11] The two bullets which hit Ronnie also hit Michael, who was two meters behind him. Michael was hit on the back and the left leg.^[12]

In convicting accused-appellant, the trial court relied on the testimonies of witnesses who pointed at accused-appellant as the person who shot and killed Ronnie. The first witness, Michael de la Cruz, testified that Ceferino Guillermo shot Ronnie de la Cruz.^[13] Another witness, Eusebio de la Cruz, Jr., also pointed out accused-appellant as the one who shot and killed Ronnie and wounded Michael.^[14]

The court also considered the testimony of Darlina Guillermo who testified that when she heard the gunshots she ran towards the church to find out the cause of such gunshots. On the way, she met accused-appellant running from the church towards his house. He had a long gun and was followed by his white dog. Darlina said that upon reaching the church, she found Ronnie dead on the ground.^[15]

On the other hand, SPO3 Delfin Bullan testified that accused-appellant surrendered the Garand rifle used by him in shooting Ronnie and Michael de la Cruz and that the rifle had been issued to accused-appellant as member of the Citizen Forces Geographical Unit (CAFGU).^[16]

The trial court dismissed allegations that the witnesses, Darlina Guillermo, Michael de la Cruz, and Eusebio de la Cruz, Jr., were biased because of their relationship to the deceased, pointing out that accused-appellant is likewise related to these witnesses. The lower court said it could not find any reason why the witnesses would falsely testify against accused-appellant.

The trial court likewise rejected accused-appellant's claim that at the time of the commission of the crime he had to be brought home by Vicente Bilagot because he was drunk. Noting that alibi could easily be fabricated, the trial court stated that it does not suffice for accused-appellant merely to prove that he was at some other place at the time of the killing but likewise that the place where he was allegedly was so far as to preclude the possibility that he could be at the scene of the crime at the time of the killing. Accused-appellant failed to show this, according to the trial court, since the place where he allegedly was at the time of the commission of the crime was only a stone's throw away from the church where the killing took place. Hence, it was not impossible for him to be at the scene of the crime. Moreover, it was held that alibi could not prevail over the positive identification of accused-appellant by the prosecution witnesses.

Accordingly, the trial court found accused-appellant guilty of murder complexed with frustrated murder and sentenced him as follows:

AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused guilty beyond reasonable doubt of the crime of Murder complexed with Frustrated Murder provided for and penalized by Article 248 of the Revised Penal Code in relation to Article 6 and 48 of the same Code, and hereby sentences him to reclusion perpetua, together with all the accessory penalties provided for by law, to pay the heirs of Ronnie dela Cruz the sum of FIFTY THOUSAND PESOS (P50,000.00) and EIGHTEEN THOUSAND PESOS (P18,000.00) as actual expenses for the wake and burial of the victim, to pay Michael dela Cruz ONE THOUSAND FIVE HUNDRED PESOS (P1,500.00) as medical expenses, incurred for his medical treatment, without however, subsidiary imprisonment in case of insolvency, and to pay the costs.

Hence, this appeal.

I.

First. Accused-appellant questions the credibility of the prosecution witnesses. He points out that Michael de la Cruz did not immediately give a statement to the authorities regarding the incident and testified only after one (1) year and three (3) months had elapsed from the time of the incident. Accused-appellant cites cases^[17] to the effect that the delay in reporting a crime to the authorities, not caused by threat, intimidation, or coercion, renders the testimony of the person doubtful, and should not be given weight.

Accused-appellant further contends that the testimony of Michael is inconsistent in material points as shown by the fact that during his direct examination, Michael said he and Ronnie de la Cruz were outside the church when Ceferino Guillermo shot them, but on cross-examination, he claimed they were inside the church when this happened.

With respect to the testimony of Darlina Guillermo, accused-appellant points out that this witness claimed she saw a person fleeing from the scene of the crime and she was certain it was accused-appellant because of the dog accompanying him. Accused-appellant says the assailant may be identified by his face, his physical features, or his voice, but not by the dog he keeps in his company.^[18] The testimony in question reads: ^[19]

- Q: You said you recognize him because of his dog, what about his face, did you not see his face?
- A: I know that he was the one because whenever he moves, his dog follows him.
- Q: My question is, were you able to recognize his face when you met him?
- A: I did not recognize his face but I only know him because of his dog.

- Q: And on December 15, 1991, what is the condition of the night, was it dark or bright?
- A: Bright, sir.
- Q: And when you met somebody you did not recognize the face of the person you met, is that correct?
- A: Even if I did not recognize, I recognized his dog.,

Anent the testimony of Eusebio de la Cruz, Jr., accused-appellant contends that it should not be given credence because according to this witness his brother's assailant was wearing a bonnet which covered his entire face, and therefore the witness could not have recognized the culprit.

Accused-appellant claims that both Darlina and Eusebio Jr. are biased witnesses because they are related to both Ronnie and Michael de la Cruz. Eusebio Jr. was the brother of the deceased, while Darlina was his aunt, being the sister of his father.

Accused-appellant points to the fact that a prosecution witness, Rogelio Guillermo, retracted his sworn statement after alleging that he had been induced to testify for the prosecution after being promised P5,000.00 by Eusebio Sr.

These contentions are without merit.

1. Accused-appellant says Michael de la Cruz kept quiet about what he allegedly knew for more than a year before he finally testified in court and gave no statement to the police immediately after the incident. We have several times before held that the failure of witnesses to volunteer information to law enforcement officers does not necessarily impair a witness' credibility.^[20] Part of the reason for this is the reticence and fear of some people of getting involved in a criminal case.

Moreover, during the trial of the case, the defense did not raise this question. If the defense thought this matter important, it should have raised it during the trial, particularly during the cross-examination of Michael de la Cruz. This is important because there could be an explanation for Michael de la Cruz' silence for over a year before finally testifying. It could be that Michael was just a minor, nine years of age at the time of the incident and was prevented from saying anything in public by his parents.

Anent the claim that Michael gave inconsistent testimony, we hold that such is not the case. As already stated, Michael was a young boy. At the time of the incident he was only eight (8) old. When he testified in court, he was just ten (10). Michael had not gone beyond Grade III. Given these facts, it is not unlikely that he committed the inconsistencies concerning the exact place where he and Ronnie de la Cruz were when they were allegedly fired upon by accused-appellant, *i.e.*, whether they were inside or outside the church. What is important is that Michael was himself wounded when Ronnie de la Cruz was shot. Michael saw the person who shot them and he pointed to accused-appellant as the assailant. It is noteworthy that although he said during the cross-examination that he was inside the church when the accused-appellant fired at them, thus contradicting his earlier statement

during the direct examination that they were then outside the church, Michael corrected himself and said that he and Ronnie de la Cruz were actually shot outside the church. This is what Michael said:[21]

- Q What about you, what were you doing there near Ronnie dela Cruz at the time of shooting incident?
- A I was sitting down, sir.
- Q Sitting down on a chair or wood?
- A I was sitted (sic) on a chair, sir.
- Q You said that you were outside of the church, were there chairs outside of the church at night?
- A I was sitting inside the church, sir.
- Q You were inside the Pentecostal church at the time of the shooting incident?
- A Yes, sir.
- Q Who was near you inside the church when there was shooting incident?
- A It's manong Ronnie, sir.
- Q And Ronnie was also sitting in the church at the time of the shooting incident, is that correct?
- A No, sir.
- Q Which is then correct, Ronnie was sitting besides (sic) you at the time of the shooting incident or Ronnie was outside of the church?
- A He was outside of the church during the shooting incident, sir.
- Q And you were also inside of the church at the time of the shooting?
- A No, sir.
- COURT:
- Q Where were you then, when you were shot?
- A I was outside the church, sir.

This inconsistency on a minor point aside, Michael was steadfast in his assertion that it was accused-appellant who shot Ronnie de la Cruz. He testified:[22]

ATTY. PINE:

- Q But to my previous question witness, you said that you felt pain in your left thigh and that Ronnie dela Cruz was already dead, did I get you right?
- A Yes, sir.
- Q And you were 2 meters away from him?
- A Yes, sir.
- Q With the distance of two meters away from Ronnie dela Cruz, will you tell the Court why Ronnie dela Cruz died?
- A Yes, sir.