

FIRST DIVISION

[G.R. No. 143093, May 21, 2007]

**RIMBERTO T. SALVANERA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND LUCITA PARANE, RESPONDENTS.**

D E C I S I O N

PUNO, C.J.:

On appeal are the Decision dated April 30, 1999 and the two Resolutions of the Court of Appeals, dated September 22, 1999 and May 11, 2000, in CA-G.R. SP No. 46945. The Court of Appeals discharged accused Feliciano Abutin and Domingo Tampelix from the Information in Criminal Case No. TM-1730 for Murder, pending before the Regional Trial Court of Trece Martires City, to become state witnesses. The appellate court likewise cancelled the bail bond of petitioner Rimberto Salvanera.

First, the facts:

In an Information^[1] dated November 30, 1996, petitioner Rimberto Salvanera, together with Feliciano Abutin, Edgardo Lungcay and Domingo Tampelix, is charged with the murder of Ruben Parane, committed as follows:

That on or about October 23, 1995, in the Municipality of Gen. Trias, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, with treachery and evident premeditation, then armed with a firearm, did, then and there, wilfully, unlawfully and feloniously assault, attack and shoot one RUBEN PARANE Y MAGSAMBOL, inflicting gunshot wound on his body, resulting to his instantaneous death, to the damage and prejudice of the heirs of the said victim.

CONTRARY TO LAW.

As per theory of the prosecution, petitioner was the alleged mastermind; Lungcay, the hired hitman; Abutin, the driver of the motorcycle which carried Lungcay to the place of the commission of the crime; while Tampelix delivered the blood money to the latter. All the accused have been arrested and detained, except Edgardo Lungcay who remained at-large.

Respondent Lucita Parane is the spouse of victim Ruben Parane.

On January 22, 1997, petitioner applied for bail. The prosecution, on March 4, 1997, moved for the discharge of accused Feliciano Abutin and Domingo Tampelix, to serve as state witnesses.

In an Omnibus Order^[2] dated September 5, 1997, the trial court granted petitioner's application for bail and denied the prosecution's motion for the discharge of accused Abutin and Tampelix. The prosecution moved for reconsideration but the motion was denied.

The prosecution then appealed to the Court of Appeals. It contended that the trial court committed grave abuse of discretion when it denied the motion to discharge accused Abutin and Tampelix to be state witnesses. It alleged that the testimonies of the two accused are absolutely necessary to establish that petitioner masterminded the murder of Ruben Parane. The prosecution likewise claimed that it was premature and baseless for the trial court to grant petitioner's application for bail because the prosecution had not yet rested its case in the hearing for the discharge of the two accused.

The Court of Appeals sustained the prosecution. It discharged accused Feliciano Abutin and Domingo Tampelix from the Information to become state witnesses, and cancelled the bail bond of petitioner Salvanera. In its Resolution dated September 22, 1999, it denied petitioner's Motion for Reconsideration. Petitioner then filed his Motion for Clarification with Leave of Court. The same was also denied in a Resolution dated May 11, 2000.

Hence, this appeal.

Petitioner enumerates the grounds for his appeal, as follows:

I. RESPONDENT COURT OF APPEALS COMMITTED SERIOUS ERROR IN RENDERING THE FIRST, SECOND AND THIRD ASSAILED ORDERS DEFYING LAW AND JURISPRUDENCE THEREON WHEN IT RULED THAT THE "SUBSTANTIAL CORROBORATION" REQUIREMENT UNDER SECTION 9, RULE 119 OF THE REVISED RULES OF COURT WAS SATISFIED BY THE PROSECUTION DESPITE THE FACT THAT -

A. THE "SUBSTANTIAL CORROBORATION" REQUIREMENT MUST BE SATISFIED THROUGH THE TESTIMONY OF THE OTHER PROSECUTION WITNESSES WHO ARE NOT AN (*sic*) ACCUSED SOUGHT TO BE DISCHARGED AS STATE WITNESS, NOT BY ANOTHER ACCUSED LIKEWISE SOUGHT TO BE DISCHARGED.

B. THE SWORN STATEMENT OF AN ACCUSED SOUGHT TO BE DISCHARGED CANNOT BE USED AS EVIDENCE FOR PURPOSES OTHER THAN HIS OWN DISCHARGE PRIOR TO THE ISSUANCE BY A COMPETENT COURT OF THE ORDER OF HIS DISCHARGE.

C. THE TESTIMONIES OF ABUTIN AND TAMPELIX CANNOT BE SUBSTANTIALLY CORROBORATED IN ITS MATERIAL POINTS BY THE OTHER PROSECUTION WITNESSES.

D. THE TESTIMONY GIVEN BY AN ACCUSED SOUGHT TO BE DISCHARGED AS STATE WITNESS CANNOT BE USED TO CORROBORATE THE TESTIMONY GIVEN BY ANOTHER

ACCUSED LIKEWISE SOUGHT TO BE DISCHARGED AS STATE WITNESS.

II. RESPONDENT COURT OF APPEALS COMMITTED SERIOUS ERROR IN RENDERING THE FIRST, SECOND AND THIRD ASSAILED ORDERS, DEFYING LAW AND JURISPRUDENCE ON THE MATTER, WHEN IT CANCELLED PETITIONER'S BAIL BOND DESPITE THE FACT THAT THE TRIAL COURT JUDGE ALREADY RULED THAT THE EVIDENCE OF HIS GUILT IS NOT STRONG.^[3]

We uphold the ruling of the Court of Appeals.

In the discharge of an accused in order that he may be a state witness, the following conditions must be present, namely:

- (1) Two or more accused are jointly charged with the commission of an offense;
- (2) The motion for discharge is filed by the prosecution before it rests its case;
- (3) The prosecution is required to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge;
- (4) The accused gives his consent to be a state witness; and
- (5) The trial court is satisfied that:
 - a) There is absolute necessity for the testimony of the accused whose discharge is requested;
 - b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;
 - c) The testimony of said accused can be substantially corroborated in its material points;
 - d) Said accused does not appear to be the most guilty; and,
 - e) Said accused has not at any time been convicted of any offense involving moral turpitude.^[4]

According to petitioner, the testimony of an accused sought to be discharged to become a state witness must be substantially corroborated, not by a co-accused likewise sought to be discharged, but by other prosecution witnesses who are not the accused in the same criminal case. Petitioner justifies this theory on the general principles of justice and sound logic. He contends that it is a notorious fact in human nature that a culprit, confessing a crime, is likely to put the blame on others, if by doing so, he will be freed from any criminal responsibility. Thus, in the instant case, petitioner supposes that both Abutin and Tampelix will naturally seize the