

FIRST DIVISION

[G.R. No. 134596, September 21, 2001]

**RAYMUND ARDONIO, PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

RESOLUTION

KAPUNAN, J.:

In his petition for review on *certiorari* before this Court, petitioner Raymund Ardonio seeks to set aside the Decision of the Court of Appeals in CA-G.R. CR No. 18956, dated October 21, 1997, and its Resolution of June 29, 1998 denying petitioner's motion for reconsideration. The assailed decision affirmed the conviction of the accused for the crime of Homicide by the Regional Trial Court, Branch 24, Iloilo City, in Criminal Case No. 36560.

The conviction of the appellant stemmed from an information reading as follows:

That on or about April 4, 1991, in the Municipality of Lemery, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm of unknown caliber, with treachery and abused (sic) of superior strength and a decided purpose to kill, did then and there, willfully, unlawfully and feloniously attack, assault and shoot Emmanuel Balano inflicting gunshot wound in the head which caused his death,

CONTRARY TO LAW.^[1]

Upon arraignment, petitioner pleaded *not guilty* to the crime charged. Trial proceeded in due course. The evidence of the prosecution as found by the trial court is as follows:

Prosecution evidence tends to show that in celebration of its fiesta, Brgy. Northwest Zone, Lemery, Iloilo, the residents held a dance in the evening of April 3, 1991. At about 1:00 a.m. the following morning (April 4) a violent commotion took place just outside the dancehall. Emmanuel Balano and Allan Ardonio who earlier that evening had an altercation inside the dancehall which incidentally was pacified, were seen exchanging fist blows. Then three persons were seen ganging up on Emmanuel, namely: Lito Ardonio, Elmer Calubia and Raymund Ardonio. The latter in particular, pulled Emmanuel towards the side of the fence and shot him. Upon being hit, Emmanuel fell, face down. Forthwith, Lito, Allan, Elmer and Raymund ran away from the place.

While the fighting was going on, Adolfo Ardonio, the father of Allan and Raymund, was seen at the dark portion of the street, holding a long firearm.^[2]

On the other hand, the defense put up by the petitioner is summarized by the trial court as follows:

In his defense which is corroborated in part by Adolfo Ardonio and substantially by Elvis Calubia, accused Raymund Ardonio admits that he was at the dancehall on that occasion. According to him, about past midnight, there was an altercation inside the dancehall between Emmanuel Balano and his brother, Allan Ardonio. This was pacified, however. About thirty minutes thereafter, an explosion (shot) was heard outside the gate of the dancehall. People scampered, as a result. The policemen inside the dancehall rushed out. He too went out. Outside, he saw Emmanuel lying flat on the ground. Somebody informed him that Allan shot Emmanuel. On hearing this, he hurriedly proceeded to the house of his grandfather, Ramon Ardonio. When he reached the place, Elvis Calubia, Lito Ardonio and Allan were there. A few moments later, policemen arrived looking for his father and Allan. Lito surrendered Allan to the policemen. The latter then led Allan towards the Municipal Bldg. and mauled him along the way. He wanted to accompany Allan but the policemen prevented him. Sometime later, two explosions were heard. After a short while, his mother and brother, Jagip arrived and informed them that Allan was shot. He stayed in the house of his grandfather until 6:00 a.m. Then, he decided to leave for home. On that occasion or sometime thereafter there never was an attempt to arrest him as a suspect in the killing of Emmanuel.^[3]

Based on the evidence presented, on April 4, 1995, the trial court rendered a decision finding Raymund Ardonio guilty beyond reasonable doubt of the crime of homicide and not murder. It found that Ardonio's defense of alibi could not succeed considering his positive identification by credible witnesses, Liezl Vitala and Salvador Castor as the author of the killing of Emmanuel Balano. It, however, ruled out the qualifying circumstances of treachery and abuse of superior strength in the killing of Balano. According to the trial court, while there was superiority in number, this was not taken advantage of "as initially the fight was only between Allan and Emmanuel. Lito and Elmer only came to the succor of Allan. Likewise, Raymund, but unlike the two, he used a gun which resulted in the death of Emmanuel."

The dispositive portion of the trial court's decision reads:

WHEREFORE, premises considered, the Court finds accused Raymund Ardonio guilty beyond reasonable doubt of homicide and hereby sentences him to a prison term covering the period from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months; to pay the heirs of Emmanuel Balano the sum of Fifty Thousand Pesos (P50,000) as compensatory damages; to pay the sum of Twenty Six Thousand One Hundred Pesos (P26,100) representing the funeral, wake and burial expenses; and, to pay the costs.

Accused should be credited in full for the period of preventive imprisonment if he agrees voluntarily in writing to abide by the disciplinary rules imposed on convicted prisoners; otherwise, only four-fifths thereof.

SO ORDERED.^[4]

Petitioner questioned his conviction before the Court of Appeals. As mentioned at the onset, petitioner's conviction was affirmed by the court *a quo*. Hence, petitioner is before this Court on the ground that there exists evidence which casts as reasonable doubt as to his guilt.

The fundamental issue raised in this petition is the failure of the lower court and the Honorable Court of Appeals to consider the presence of evidence raising reasonable doubt as to the guilt of the accused, consisting of the testimony of prosecution witness Salvador Castor, granted full credence by the lower court and the Honorable Court of Appeals as an eyewitness to the incident, but the testimony of this witness that he reported the incident to the police authorities including the fact that it was the petitioner who caused the death of the victim, yet the police authorities did not pick up and arrest the petitioner, who was present when the arrest was made, and the person arrested was Allan Ardonio who was eventually killed because of his being the culprit in causing the death of the victim, Emmanuel Balano. The fundamental legal principle in the conviction of the accused is that his guilt must be proved by evidence beyond reasonable doubt. And the presence of evidence either favoring his guilt or his innocence must be resolved in favor of his innocence, as moral certainty of his guilt would not be present. (People vs. Bania, 134 SCRA 353; People vs. Libag, 184 SCRA 719; People vs. Fernandez, 186 SCRA 839).^[5]

After a careful evaluation of the records of this case, we find the petition to be without merit.

The prosecution and the defense presented contradictory accounts of the events leading to the death of Emmanuel Balano. Well-settled is the doctrine that the opinion of the trial court as to which version of the commission of the crime should be believed is entitled to great respect. This is because the trial judge had the opportunity to observe the demeanor of the witnesses on the stand and thus determine who of the witnesses deserve credence.^[6] A close examination of the records reveals no justification to depart from the trial court's findings on the issue of credibility.

Petitioner failed to show any ill-motive on the part of witnesses Liezl Vitala and Salvador Castor for testifying against him. There being no showing of improper motive on the part of Liezl and Salvador for identifying the accused as the perpetrator of the crime, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit.^[7] The trial court ruled, thus:

As regards the testimonies given by prosecution witnesses Leizel Vitala and Salvador Castor, implicating accused in the fatal shooting of Emmanuel [Balano], no evidence was ever introduced ascribing ill motive on their part in testifying. `Testimony of prosecution witnesses pointing to accused as murderer is credible where there is no evidence of grudges or ill-will x x x. it is hardly credible that such a person would pervert the truth, testify to a falsehood, and cause the damnation of one who had