

## THIRD DIVISION

[ G.R. No. 181335, July 27, 2016 ]

**MARIO SALUTA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### DECISION

**REYES, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>[2]</sup> dated November 29, 2006 and Resolution<sup>[3]</sup> dated December 11, 2007 of the Court of Appeals (CA) in CA-G.R. CR No. 26663. The CA affirmed with modification the Judgment<sup>[4]</sup> dated November 20, 2001 of the Regional Trial Court (RTC) of Cagayan de Oro City, Misamis Oriental, Branch 21, in Criminal Case No. 97-1502, finding Mario G. Saluta (Saluta) guilty of the crime of Homicide.

#### The Facts

Based on the prosecution's evidence, it was established that on October 19, 1997, at 7:00 p.m., the victim, Police Officer 1 Tom Pinion (PO1 Pinion), Armando Abella (Abella) and Saluta, together with their team mates celebrated their victory in the basketball tournament at the house of Alex Catulong located at Barangay 25, Licoan, Julio Pacana Street, Cagayan de Oro City.<sup>[5]</sup>

During the party, PO1 Pinion, a police officer, took the bullets from the chamber of his .38 calibre service revolver and showed it to his friends. Afterwards, he reloaded the bullets to his gun, and placed the gun back on the holster tucked on his waist.<sup>[6]</sup>

By midnight, Saluta, Abella and PO1 Pinion went out to buy beer on credit at Bolatino Store but they were refused. According to the defense, PO1 Pinion suggested proceeding to Pilapil Store which was 30 meters away from the place of their party. When they arrived at Pilapil Store, it was already closed so they knocked on the door and said that they will buy Red Horse, but no one answered. They waited for the store to open so Saluta and PO1 Pinion sat on the bench while Abella stood beside the door of the store.<sup>[7]</sup>

According to Saluta, since the store did not open, he stood up and decided to leave but after two to three steps, he heard a gunshot. He stopped and saw PO1 Pinion falling down. He asked PO1 Pinion, "What happened, what is your problem?" "*Part, yawa! Wala ka kabalo*" ("Partner, damn it! I did not know."), then he held the latter in his hands. He saw Abella pacing back and forth so he asked him where he was going. Abella then replied that he will go to PO1 Pinion's parents to tell them that their son committed suicide.<sup>[8]</sup>

Meanwhile, after hearing the gunfire, their friends Alfon Piador and Loloy Hernandez came to the scene and saw PO1 Pinion wounded on his right head and lying on the ground. They immediately carried PO1 Pinion to one of their friend's owner-type jeepney and brought him to the hospital. Unfortunately, PO1 Pinion was pronounced dead on arrival. The prosecution claimed that when Saluta saw PO1 Pinion's parents in the hospital, he begged for forgiveness.<sup>[9]</sup>

Subsequently, PO3 Jaime Blanco investigated the incident and invited Saluta for interrogation, while another police officer also asked Abella to go with them for the same purpose.<sup>[10]</sup> At the police station, Saluta and Abella stated that PO1 Pinion committed suicide.<sup>[11]</sup>

For his part, Abella said that he was already walking 6 to 7 m ahead of Saluta and PO1 Pinion, who were 2 to 3 m apart from each other, when he heard a gunshot. He looked back and saw PO1 Pinion with both hands on his face, bloodied and lying prostrate on the ground.<sup>[12]</sup>

Saluta, on the other hand, denied the charges against him and maintained that PO1 Pinion committed suicide. He said that while they were lifting PO1 Pinion, he saw the latter's service firearm so he picked it up and placed it on the holster then carried it, and later gave it to PO1 Pinion's younger sister.<sup>[13]</sup>

In the autopsy conducted on the cadaver of PO1 Pinion, the Medico-legal Officer noted that PO1 Pinion's cause of death was hemorrhage, severe, secondary to gunshot wound of the head.<sup>[14]</sup>

On October 20, 1997, a paraffin test was conducted on the hands of PO1 Pinion, Saluta and Abella. The result of the paraffin test on the hands of PO1 Pinion showed negative results for the presence of nitrates, while the test conducted on Saluta and Abella yielded positive results for gunpowder burns.<sup>[15]</sup>

Meanwhile, the Ballistic Report confirmed that the slug lodged on PO1 Pinion's head and the empty bullet shell recovered was fired from the .38 caliber pistol owned by PO1 Pinion. It was also established that PO1 Pinion was left-handed.<sup>[16]</sup>

### **Ruling of the RTC**

After trial, the RTC rendered Judgment<sup>[17]</sup> on November 20, 2001 convicting Saluta of the felony charged and sentenced him to suffer imprisonment of six (6) years and one (1) day of *prision mayor* to fourteen (14) years and eight (8) months of *reclusion temporal* as maximum and to pay the heirs of PO1 Pinion P150,000.00. The RTC, however, acquitted Abella upon finding no sufficient evidence against the latter. The *fallo* of the judgment reads:

WHEREFORE, the Court hereby finds [Saluta] guilty beyond reasonable doubt of the crime charged and appreciating in his favor the mitigating circumstance of voluntary surrender as he had been in the custody of the Police before the case was filed, and applying the Indeterminate Sentence Law hereby imposes upon him the penalty of six (6) years [and one] (1) day of *prision mayor* to fourteen (14) years [and] eight (8)

months o[f] Reclusion Temporal as maximum[,] and to indemnify the heirs of [PO1 Pinion] the sum of P150,000[.00] and to pay the costs.

Exhibits "G" (Firearm) to "G-4" are hereby ordered forfeited in favor of the Government.

[Saluta] shall however be credited in the service of his sentence with 4/5 of his time during which he has undergone preventive imprisonment, there being no proof that he has voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

There being no sufficient evidence against [ABELLA], he is hereby ACQUITTED.

SO ORDERED.<sup>[18]</sup>

### **Ruling of the CA**

On appeal, the CA affirmed the conviction of Saluta with modification as to the penalty and awards imposed, viz.:

**WHEREFORE**, the instant appeal is **DISMISSED** for lack of merit and the Decision dated 20 December 2001 of the [RTC] is **AFFIRMED WITH MODIFICATION**. It shall now read as follows:

WHEREFORE, the Court hereby finds [SALUTA] guilty beyond reasonable doubt of the crime charged and appreciating in his favor the mitigating circumstance of voluntary surrender as he has been in the custody of the Police before the case was filed, and applying the Indeterminate Sentence Law hereby imposes upon him the penalty of six (6) years and one (1) day of *prision mayor* to fourteen (14) years and eight (8) months of Reclusion Temporal as maximum and to indemnify the heirs of [PO1 Pinion] the amount of P50,000.00 as civil indemnity *ex-delicto*, P50,000.00 as moral damages and P25,000.00 as temperate damages. Costs against [Saluta].

Exhibit "G" (Firearm) to "G-4" are hereby ordered forfeited in favor of the government.

[Saluta] shall however be credited in the service of his sentence with 4/5 of his time during which he has undergone preventive imprisonment, there being no proof that he has voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

There being no sufficient evidence against [ABELLA], he is hereby ACQUITTED.

SO ORDERED.<sup>[19]</sup>

### **Issue Presented**

WHETHER THE GUILT OF SALUTA FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT BY CIRCUMSTANTIAL EVIDENCE.

**Ruling of the Court**

The Court affirms the conviction of Saluta.

To begin with, it must be stressed that "a petition for review on *certiorari* under Rule 45 of the Rules of Court shall raise only questions of law."<sup>[20]</sup> The Court is not a trier of facts, and it is not the function of the Court to re-examine the evidence submitted by the parties.<sup>[21]</sup> Since the CA and the trial court unanimously found that Saluta is guilty as charged, it consequently falls down on Saluta to come forward with a good reason or cause to have the Court depart from the age-old rule of according conclusiveness to the findings of the trial courts, which the CA affirmed. But that convincing demonstration was not done by Saluta, thus, his guilt was sufficiently proven by the prosecution.

Based on the records and the evidence adduced by both parties, it is indisputable that no direct evidence points to Saluta as the one who killed PO1 Pinion. Consequently, the courts below were forced to rely on circumstantial evidence to support its conclusion of guilt. Under Section 4, Rule 133 of the Rules of Court, circumstantial evidence would be sufficient to convict the offender if: (i) there is more than one circumstance; (ii) the facts from which the inference is derived are proven; and (iii) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt.<sup>[22]</sup> Thus, "[c]onviction based on circumstantial evidence may result if sufficient circumstances, proven and taken together, create an unbroken chain leading to the reasonable conclusion that the accused, to the exclusion of all others, was the author of the crime."<sup>[23]</sup>

Applying these parameters, the Court is convinced that the circumstantial evidence relied upon by the lower courts sufficiently support Saluta's conviction. As found by the trial court, the following circumstantial evidence established by the prosecution was sufficient to convict Saluta of the crime charged:

1. There were only three of them present at the place of the incident[;]
2. [Saluta], upon seeing the parents of [PO1 Pinion] begged for forgiveness;
3. The paraffin test shows that Saluta is positive of nitrates or gunpowder on both hands, indicative of his firing the lethal weapon holding the handle with both hands;
4. [PO1 Pinion] is negative of nitrates or gunpowder burns. Hence, he has not fired the firearm;
5. The findings of Medico-legal Officer Tammy Uy, to wit:

**"GUNSHOT WOUND, ENTRANCE:** 0.9x1 cms.; ovoid; with contusion collar and with charred edges:"