

SECOND DIVISION

[G.R. No. 172744, September 29, 2008]

**MARVIN ANGELES, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

TINGA, J.:

The prosecution filed an information^[1] for frustrated murder against petitioner Marvin Angeles (Angeles). Angeles pleaded not guilty during the arraignment.^[2]

The prosecution presented four witnesses, namely: Cesar Calma (Calma), Arnold Zuñiga (Zuñiga), Louie Marquez (Marquez), and Dr. Luisito Celestino (Dr. Celestino), the attending physician of Calma. On the other hand, the defense also presented four witnesses, namely: Angeles himself, Prenil Bagang (Bagang), Danilo Alberto (Alberto) and Garcia Garcia (Garcia).

The prosecution was able to establish the following facts:

At around 9 o'clock in the evening of 18 July 1996, Calma was drinking with Zuñiga and Marquez at a *videoke* bar owned by a certain Mr. Acleta in Sitio Ibabaw, National Road, Morong, Bataan. Angeles, Garcia, and two other people, who were all drunk, arrived at the *videoke* bar. Bagang, one of the customers of the *videoke* bar, was then outside the window of the establishment and he asked Zuñiga to call Garcia. Zuñiga acceded to Bagang's request by tapping Garcia on the shoulder and telling him that "*Brod, Prinil Bagang is calling for you.*" Garcia thereafter went outside together with Angeles. Angeles then told Garcia and Bagang to fight against each other. Upon seeing Zuñiga, Garcia uttered, "*MARVIN, ito na lang.*" Angeles responded by telling Garcia and Zuñiga to "*Go on fight each other.*"^[3]

Zuñiga turned away but Garcia followed him and started punching him. Zuñiga parried the fist blows by raising his hands knowing that Garcia was already drunk, but he was hit nonetheless.^[4]

When Calma saw Zuñiga receiving punches from Garcia, he went out to help Zuñiga by punching Garcia on the chest. During the fray, Angeles struck Calma on the right eye with the handle of the gun. Calma tried to turn away and run but Angeles shot him at the back. Zuñiga helped Calma escape from the shooting rampage of Angeles. While Zuñiga and Calma were escaping, Angeles shot them again but missed. Calma and Zuñiga then hid in a dry canal nearby, which was about two feet below the ground.^[5]

Calma and Zuñiga saw Angeles and his companions, who were aboard Angeles' owner-type jeep, searching for them. Angeles and his companions left when they

failed to find Zuñiga and Calma. Marquez was able to catch up with Zuñiga and Calma, and he helped Zuñiga bring Calma to the health center. The health center was not equipped to handle Calma's wound so he was referred to the provincial hospital. After Calma was brought to the hospital, Zuñiga and Marquez went to the police station to report the incident. They found out at the police station that a Councilman Ginete, who was also in the *videoke* bar when the incident happened, had already reported it to the police.

Calma was confined at the Bataan Provincial Hospital for one week. During the time that he was injured, Calma had to stop driving his tricycle through which he was supposedly earning P200.00 a day. It was stipulated by both the prosecution and defense that Calma spent P5,935.55 for his medical expenses including x-ray examination.^[6]

Dr. Celestino, who attended to Calma at the Bataan Provincial Hospital for a gunshot wound and conducted a minor operation on him on 18 July 1996, issued a medico-legal certificate stating the injuries which Calma had sustained and testified on the extent of Calma's injuries.^[7]

Angeles denied the prosecution's account of the incident. Bagang, Alberto, and Garcia tried to corroborate Angeles's testimony. The defense account of the incident is as follows: in the evening of 18 July 1996, after working overtime in Angeles' rice mill, Angeles asked Garcia and Alberto to accompany him to the town proper. They went to a newly opened *videoke* bar where he saw Calma's group, consisting of Dennis Ginete (Dennis), Marquez, and Zuñiga. While Angeles and his companions were waiting for their orders to arrive, Zuñiga approached their table. Zuñiga started cursing at Garcia and hit him with a beer bottle. Garcia and Alberto ran outside, and the group of Calma chased them. Calma and his companion were able to catch up with Garcia. Calma was punching Garcia while the latter was parrying the fist blows. Angeles and Alberto had to face off with the other companions of Calma, and then engaged them in a fist fight.^[8]

During the scrimmage, Angeles saw Zuñiga approach them with a gun so he shouted, "*Takbo at may baril.*" Thereafter, Angeles turned his back to run. Angeles boarded his jeep, followed by Alberto. Angeles saw Zuñiga trying to hit Garcia with the gun. But instead of hitting Garcia, Calma was the one who was hit on the face when Garcia pushed him. Garcia ran and boarded the jeep. Calma and Zuñiga still ran after them while the jeep was running slow; Calma even tried to pull Garcia out of the jeep but failed. Afterwards, Angeles, Alberto and Garcia heard two gunshots, after which they saw, through the rear view mirror of Angeles' jeep, Calma lying prostrate on the ground and Zuñiga pointing the gun at them.^[9]

According to Angeles, envy is the reason Calma filed the case against him instead of filing it against Zuñiga. Angeles, Calma and his companions were tricycle drivers but Angeles' financial condition improved. Angeles was able to establish a small business while Calma and his companions are still tricycle drivers. Also, Calma did not file a case against Garcia because the latter had no money. Angeles claimed that when his wife and mother went to the house of Calma to try to settle the case, the latter demanded P200,000.00.^[10]

In its decision^[11] dated 28 February 1999, the Regional Trial Court (RTC) of

Balanga, Bataan, Branch 2 found Angeles guilty of frustrated homicide.^[12] The RTC held that the guilt of Angeles was established by the direct and positive testimonies of the prosecution's witnesses. The attempt to pin the crime on Zuñiga is not worthy of credence for if it were true that Angeles and his companions were shot at by Zuñiga then they should have filed a criminal charge against the latter. Angeles sought reconsideration of the decision, but the RTC denied his motion in an order dated 23 June 1999.^[13] It held that even if there were inconsistencies on certain parts of the testimonies of the prosecution's witnesses, such inconsistencies do not deviate from the established fact that it was Angeles who shot Calma. The case was appealed to the Court of Appeals.^[14]

The Court of Appeals affirmed the RTC's ruling in a Decision dated 22 February 2006.^[15] The appellate court sustained the RTC's assessment of the credibility of the witnesses for the prosecution and likewise gave them full faith and credence. Calma's testimony that Angeles was the one who shot him was positive and straightforward, and was corroborated by the other prosecution's witnesses. The Court of Appeals likewise did not find any material inconsistencies in the testimonies of the prosecution's witnesses.

Hence, the present petition for review before this Court.

The petition is unmeritorious.

The Court agrees with the observation of the Court of Appeals that there is no showing that the RTC was arbitrary in its findings of fact and appreciation of evidence, neither did it overlook nor ignore any substantial facts.^[16] It is a well-settled rule that the evaluation of the testimonies of witnesses by the trial court is received on appeal with the highest respect because such court has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not.^[17] We see no reason to deviate from this rule.

A review of the records of this case shows that the RTC did not err in giving credence to the testimonies of the prosecution's witnesses. The testimonies of Calma and Zuñiga do not suffer from any serious and material contradictions that can detract from their credibility. Their testimonies are credible as they are replete with details and corroborated on material points by physical evidence and the testimonies of the other prosecution's witnesses. Dr. Celestino categorically testified that Calma was shot at the back and that without timely medical attention he would have died.^[18] Zuñiga and Marquez were also very categorical and frank in their testimonies identifying Angeles as the man who shot Calma and who, together with his companions riding in his owner-type jeep, chased Calma and Zuñiga after the shooting. The Court has repeatedly held that inconsistencies and discrepancies in the testimony referring to minor details, and not on the basic aspects of the crime, do not impair the witness' credibility.^[19] These inconsistencies even tend to strengthen, rather than weaken, the credibility of witnesses as they negate any suspicion of a rehearsed testimony.^[20]

There was no suppression of evidence by the prosecution when it did not present Dennis as one of its witnesses. The prosecutor has the exclusive prerogative to determine the witnesses to be presented for the prosecution. If the prosecution has