

THIRD DIVISION

[G.R. NO. 133709, April 28, 2005]

CONSTANTE SICCUAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on *certiorari*^[1] of the Decision^[2] rendered by the Court of Appeals on August 26, 1997 and its Resolution dated April 28, 1998 in CA-G.R. CR No. 17996, entitled "*People of the Philippines vs. Constanter Siccuan*."

In an Information dated October 28, 1985, the Office of the Provincial Fiscal of Cagayan^[3] charged Constanter Siccuan, herein petitioner, with the crime of murder committed as follows:

"That on or about September 4, 1982, in the Municipality of Iguig, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Constanter Siccuan, armed with a gun, with intent to kill, with evident premeditation and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Benjamin de la Cruz, inflicting upon him gunshot wounds on the different parts of his body which caused his death."

Upon being arraigned on March 21, 1986, petitioner, with the assistance of counsel, pleaded not guilty to the charge. Trial then ensued.

Evidence for the prosecution established the following:

On September 2 to 4, 1982, a team from the Philippine Tobacco Research and Training Center, Mariano Marcos State University, Batac, Ilocos Norte, headed by Benjamin de la Cruz, conducted a training seminar for farm operators at the Cagayan Integrated Agricultural Development Project, Minanga, Iguig, Cagayan.

On the evening of September 4, 1982, a program was held to cap the seminar. At eleven o'clock that night, Benjamin de la Cruz was shot to death. Fidel Udarbe and Dante Claravall witnessed the incident. During the trial, they positively identified petitioner as the malefactor.

Dr. Edmundo Borja, Rural Health Physician of Tuguegarao, Cagayan, conducted a postmortem examination of the victim. His findings are as follows:

"2. Gunshot wound with split hole point of entrance, 0.9 cm. more or less at the left anterior axillary fold; directed posteriorly, upward and to the right with no point of exit. 3. Gunshot wound with split hole point of entrance, 2 cm. more or less, at the left anterior axillary fold below the

above described gunshot wound, directed posteriorly, upward and to the right with no point of exit.⁴ Gunshot wound at the left hand between the 1st and 2nd metacarpal bones with point of entrance at the dorsal aspect, oval, 0.6 cm. x 1 cm. more or less, directed posteriorly, upward and to the left with point of exit at the palmar aspect, 0.5 cm x 0.6 cm. more or less.⁵ Gunshot wound, oval 0.7 cm. more or less, at the mid-epigastric region; directed posteriorly, downward, to the left with point of exit at the postero-lateral aspect of the left lumbar region, 0.6 x 0.9 cm more or less.”^[4]

According to Dr. Borja, the cause of the victim’s death is “shock due to internal hemorrhage due to gunshot wound.”^[5] He was 30 years old at the time of his death.

Petitioner was a former member of the Integrated National Police (now Philippine National Police) with the rank of patrolman. At the time of the incident on September 4, 1982, he was assigned to the Regional Security Unit, Regional Command 2, Camp Adduru, Alimanao, Tuguegarao, Cagayan.

After the prosecution had rested its case, the defense, with leave of court, filed a “Demurrer to Evidence with Reservation.” The trial court denied the Demurrer and ordered the defense to present its evidence.

Petitioner denied the charge, claiming that a member of the New People’s Army (NPA) must have shot the victim considering that in his speech during the program, he “lambasted the NPA.” Petitioner declared that at that time, he was outside the building where the seminar was being held and about ten (10) meters away from the spot where de la Cruz was shot. He heard two gunshots, after which the lights went out.

The trial court, in its Decision, found petitioner guilty beyond reasonable doubt of the crime of homicide and imposed upon him the penalty of eight (8) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. Petitioner was ordered to indemnify the heirs of the victim in the amount of fifty thousand (P50,000.00) pesos.

On appeal, docketed as CA-G.R. CR No. 17996, the Court of Appeals affirmed the trial court’s Decision in toto. Petitioner timely filed a motion for reconsideration but it was denied in its Resolution^[6] dated April 28, 1998.

Petitioner, in the instant petition, ascribes to the Court of Appeals the following errors:

“I

THE COURT OF APPEALS COMMITTED A FATAL AND REVERSIBLE ERROR, IF NOT GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN AFFIRMING IN TOTO THE LOWER COURT’S ORDER DENYING HEREIN APPELLANT’S DEMURRER TO EVIDENCE ON THE GROUND OF INSUFFICIENCY OF EVIDENCE.

II