

## FIRST DIVISION

[ G.R. NO. 152527, October 20, 2005 ]

**JOEY GUIYAB Y DANAOG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

This petition for review seeks to set aside the **Decision**<sup>[1]</sup> dated September 27, 2001 of the Court of Appeals in CA-G.R. CR No. 23703, affirming the Decision of the Regional Trial Court, Branch 22, Cabagan, Isabela, in Criminal Case No. 22-1074, convicting Joey Guiyab of Homicide, and the **Resolution**<sup>[2]</sup> dated February 26, 2002 denying his motion for reconsideration.

On March 11, 1993, petitioner Joey Guiyab was charged with Homicide before the Regional Trial Court of Cabagan. The **Information** reads:

That on or about the 12th day of December, 1992, in the [M]unicipality of Tumauni, [P]rovince of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, with intent to kill and without any just motive, assault, attack and stab with a bladed pointed instrument one Rafael Bacani, inflicting upon him, a stab wound on the right anterior back wall, which directly caused his death.

CONTRARY TO LAW. <sup>[3]</sup>

On arraignment, petitioner, with the assistance of counsel, pleaded not guilty. Trial on the merits ensued.

Prosecution witness JOSEPH MADRIAGA testified that on December 12, 1992 at about 9:00 p.m., while the victim Rafael Bacani and he were conversing in front of the Community Center in Tumauni, a certain Juan Sanchez approached and kicked them. As they posed for a fist fight, petitioner Joey Guiyab uttered "*Pureban nu ta inanna nu*" (You try and you will see.) while brandishing a knife. He recalled that he retreated and jumped over the fence. He then picked up a stone, grabbed Juan Sanchez by the hair and struck him in the head. It was then that petitioner chased him. Failing to catch him, petitioner turned to Rafael who was following them. Petitioner stabbed Rafael once on the right chest. Rafael ran a few meters before he fell. Joseph and Rafael's brother, Bong Matias, brought the victim to the hospital.

DR. ERASMO A. CRUZ, the resident physician of Isabela Integrated Provincial Health Office (otherwise known as the Isabela Provincial Hospital), testified that at around 10:45 in the evening of December 12, 1992, he attended to Rafael Bacani. Rafael had a 1.5 centimeter stab wound located on the fourth interpostal state (middle part

of the chest above the nipple). The victim died, according to the medical certificate, of cardiorespiratory arrest, the antecedent cause of which is hypovolemic shock and the underlying cause is the stab wound at the anterior chest. He died at about 6:25 a.m. the next day.

VISITACION MATIAS VDA. DE BACANI, the victim's mother, testified that she spent P10,000 for the medical expenses, P18,000 for the coffin and P30,000 for the other funeral expenses.

For his part, petitioner raised the defense of alibi. JOEY GUIYAB testified that he was not at Tumauni Cultural and Sports Center at the time the incident happened. He averred that he was farming until 5:00 p.m. at Sitio Bayabo, Camasi, and slept at around 9:00 p.m. in their house at Sitio Bayabo. His testimony was corroborated by Domingo Gumarú, and petitioner's parents, Silvino and Vicenta Guiyab.

DOMINGO GUMARU, petitioner's neighbor, testified that he saw the petitioner at Sitio Bayabo at 6:00 p.m. on December 12, 1992 and again at 8:00 a.m. of December 13, 1992. He also testified that to go to the Centro (the town center of Tumauni) from Camasi, one has to go to Cumabao and take a jeep there to the Centro. In 1992, there were only three passenger vehicles plying Cumabao to Centro and the last trip was at around 4:00 p.m.

As rebuttal, the prosecution presented SP04 ROMEO TUMOLVA who swore that he personally knows the petitioner as he is a "*compadre*" of the petitioner's parents. He testified seeing the petitioner along the fenced area of the Community Center at the night of the incident.

On July 7, 1999, the trial court rendered judgment,<sup>[4]</sup> the decretal portion of which reads:

WHEREFORE, the Court hereby renders judgment finding the accused Joey Guiyab GUILTY beyond reasonable doubt of the crime of Homicide as defined and penalized under Article 249 of the Revised Penal Code and hereby sentences him to suffer an indeterminate penalty of prision mayor medium to reclusion temporal minimum or from eight (8) years and one (1) day to fourteen (14) years and eight (8) months, to pay the Heirs of Rafael Bacani P50,000.00 as death indemnity, plus P30,000.00 for actual damages and P18,000.00 for funeral expenses, without subsidiary imprisonment in case of insolvency. Costs de officio.

SO ORDERED.<sup>[5]</sup>

The case was elevated to the Court of Appeals. The appellate court affirmed the trial court's decision and denied petitioner's motion for reconsideration.

Petitioner now comes before us raising the following issues:

I.

WHETHER OR NOT THE GUILT OF THE PETITIONER WAS PROVEN BEYOND REASONABLE DOUBT TO CONVICT HIM OF THE CRIME

CHARGED.

II.

WHETHER OR NOT THE IDENTITY OF THE ACCUSED AS THE ASSAILANT  
WAS FULLY ESTABLISHED BY THE PROSECUTION.<sup>[6]</sup>

The core issue of the present case is whether the guilt of the petitioner was established beyond reasonable doubt. We must likewise inquire as to whether the petitioner was adequately identified.

Petitioner claims that the real identity of the assailant was not fully established by the prosecution since the lone eyewitness learned the name of the petitioner only after it was fed to him by Police Officer Armando Lugo. Petitioner contends that the identification of the petitioner was tainted with conjecture and speculation.

The Solicitor General counters that Joseph Madriaga witnessed the whole incident and positively identified the petitioner. This is sufficient to convict petitioner.

We have carefully examined the records and find nothing in them that supports petitioner's claim that his identification was tainted with conjectures and speculation. Our review of the transcript shows that Joseph Madriaga testified in a categorical and straightforward manner on the events leading to the death of Rafael Bacani. We quote:

Q: Do you know Joey Guiyab?

A: Yes, sir.

Q: Tell the Court why you know him?

A: I know him to be a resident of San Vicente and I often see his face.

Q: If Joey Guiyab is in Court, could you point him?

A: Yes, sir.

Q: Please point to him.

Court Interpreter:

Witness pointing to a person who when asked gave his name as Joey Guiyab.

. . .

Q: After Juan Sanchez hit you with (sic) Rafael Bacani with one single kick, what did you do?

A: Because we were surprised by the kick of Juan Sanchez we acted by preparing our fists to fight back but this Joey Guiyab took his knife and said in the Ibanag dialect "Pureban nu ta inanna nu" which means you try and you will see.

Q: After Joey Guiyab brought out a knife and said to you, you try and you will see, what happened next?

A: I moved back and jumped over the fence.