

FIRST DIVISION

[G.R. No. 144405, February 24, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FERDINAND
MATITO Y TORRES, A.K.A. "FREDDIE," APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Circumstantial evidence, when demonstrated with clarity and forcefulness, may be the sole basis of a criminal conviction. It cannot be overturned by bare denials or hackneyed alibis.

The Case

Ferdinand Matito y Torres alias "Freddie" appeals the June 20, 2000 Decision^[1] of the Regional Trial Court (RTC) of Malolos, Bulacan (Branch 12), in Criminal Case No. 240-M-99, finding him guilty of murder and sentencing him to *reclusion perpetua*. The dispositive part of the Decision is worded thus:

"WHEREFORE, finding herein accused Ferdinand Matito y Torres @ Freddie guilty as principal beyond reasonable doubt of the crime of murder as charged, there being no attendant mitigating or aggravating circumstance in the commission thereof, [the Court hereby sentences him] to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased in the amount of P75,000.00, plus P100,000.00 as moral damages subject to the appropriate filing fee as a first lien, and to pay the costs of the proceedings.

"In the service of his prison term the accused, being a detention prisoner, shall be credited with the full time during which he had undergone preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code."^[2]

The Information,^[3] dated November 24, 1998, charged appellant as follows:

"That on or about the 16th day of October, 1998, in the [M]unicipality of Paombong, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a firearm and with intent to kill one Mariano Raymundo, Jr. did then and there willfully, unlawfully and feloniously, with evident premeditation, treachery and taking advantage of night time attack, as[s]ault and shoot with the said firearm the said Mariano Raymundo, Jr. hitting the latter on the different parts of his body, thereby causing him serious physical injuries which directly caused his death."^[4]

Upon his arraignment on February 5, 1999,^[5] appellant, assisted by his counsel *de parte*,^[6] pleaded not guilty. After trial in due course, the court *a quo* rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief, the Office of the Solicitor General (OSG) presents the prosecution's version of the facts as follows:

"On October 16, 1998, around 10:30 in the evening, in San Roque, Hagonoy, Bulacan, Filomena^[7] Raymundo heard gunshots just moments after her husband Mariano Raymundo, Jr. had stepped out of their house to go to the backyard to attend to his quails. As the shots came from the direction where Mariano was, Filomena rushed to the kitchen door and, upon opening it, saw Mariano who was about to come in. He was pressing his hands on his shoulder which was bloodied and bleeding. Once inside the house, Filomena asked Mariano what happened and who did it to him. Mariano replied: 'Binaril ako ni Pareng Freddie. Binaril ako ni Pareng Freddie.' Mariano pushed Filomena away from the door when she tried to look outside. Filomena again asked Mariano who shot him, but Mariano's voice by then was barely audible.

"Filomena and her two (2) daughters whom she had awakened, called out to their neighbors for help. Mariano was boarded on a tricycle and rushed to the Divine World Hospital where he was pronounced dead.

"Dr. Manuel Aves conducted an autopsy examination on the victim at the Hagonoy District Hospital. His examination revealed that the victim sustained one (1) fatal wound on the right lateral neck at the area of the carotid triangle; two (2) other wounds on the left shoulder and right hand. Dr. Aves placed the cause of death to 'hypovolemic shock due to GSW, neck.'

"On the following day, the police invited appellant and his father for questioning and conducted paraffin tests on them. Filomena identified them as the last persons with whom Mariano had a quarrel prior to his death.

"On October 19, 1998, Teresita Manalo Lopez, Forensic Chemist of the PNP Crime Laboratory, Malolos, Bulacan, submitted her report that the right hand cast of appellant was positive for powder nitrates.

"While still alive, Mariano was a barangay tanod and the secretary of their neighborhood association. A month prior to his death, Mariano cut the supply of water to the house of appellant for his failure to pay his water bills for two (2) months. Also, Mariano had interceded for and on behalf of some neighbors who demanded that appellant move his fence away from their walk path. Then, about 6:30 in the evening of October

16, 1998, Marlene Raymundo, a daughter of Mariano and Filomena, met appellant along the road. After asking her where her father was, appellant cursed: 'Putang ina iyang Tatay mo. Yari sa akin iyang Tatay mo.' Marlene Raymundo observed that appellant was drunk and his eyes were red."^[8] (Citations omitted)

Version of the Defense

The defense narrates its version of the facts in this manner:

"On the part of the accused, they presented as witness MR. CEFERINO GALVEZ, 44 years old, a third cousin of the victim [M]ariano Raymundo, Jr. He testified that he came to know of the death of Mariano Raymundo, Jr. through a neighbor and upon learning it went to his wake at Hangga, Hagonoy, Bulacan. While at this wake, he came to have a conversation with the victim's widow who told him that *her husband was already dead and was not able to say anything before he died since blood was already coming out through his nose and mouth.*

"On cross[-]examination, he testified that the accused is a nephew of his wife and during the time he went to the wake of the victim, he saw many of their relatives. The accused, during that time was outside the yard.

"Another witness for the defense is DR. MANUEL AVES who on direct examination testified that the victim Mariano Raymundo, Jr. sustaine[d] three (3) gunshot wounds and the most fatal of which [was] the one that [was] inflicted in the neck of the deceased. The said injury [was] a bloody one that it can block the air passage of the victim making him unable to talk.

"On cross[-]examination, the doctor testified that the injury of the victim affect[ed] the larynx which [was] so severe that it [was] not possible that he [could] talk as his injury [was] in the neck. There [was] no possibility that the victim [could] speak.

"The accused himself, FERDINAND MATITO was placed on the witness stand and testified that he [was] the accused in this case and that he kn[e]w the victim Mariano Raymundo, Jr. because his wife is his son's godmother in his confirmation. He is also a neighbor, their r[e]sidence being almost 50 meters away from each other, separated by about four houses. On October 16, 1998, between the hours of 10:00 o'clock to 11:00 o'clock in the evening, he was at home with his wife and his four (4) children. On that night, at about past 8:00 o'clock in the evening, after having dinner, his family went to bed. Between the hours of 1:00 to 2:00 o'clock in the morning of the next day, they were awaken[ed] by two (2) policemen who [were] then with his brother Aries Matito. The policemen told him that they need[ed] to talk to [him] about the killing that happened that day and told [him] that his kumare told the policemen that *we were the only ones that [had] a fight/quarrel with her victim husband.* He asked the policemen who is the kumare that they [were] talking about and they told [him] that it [was] Felomena Raymundo. He told the policemen that he knew nothing about the killing

and he was in fact only awaken[ed] by them. The accused also denied the allegations testified to by the victim's daughter Marilyn and denied having said anything against the victim. In fact, between the hours of 6:00 in the evening of October 16, 1996, he [was] already at home. He also denied the allegations as testified to by the widow of the victim and denied having any misunderstanding with the victim when it cut[-]off the water supply. That they left a one meter passage when they put a barb[ed] wire fence around their house. Of the two instances mentioned, the accused denied having any heated argument or quarrel with the victim because ever since, they [had] good relationship as neighbors. He [had] no knowledge of any person who could have done the same to his kumpadre.

"On cross[-]examination, the accused testified that his good relation with the victim [was] the same as his kumadre and their children. That's why he [did] not know of any reason why the widow of the victim [had] implicated him with the killing of her husband. On the day of October 16, 1998, he arrived home at around 4:30 in the afternoon from fishing. At about 8:00 o'clock in the evening of that same day, he and his family already went to bed and slept until he was awaken[ed] by the two policemen who invited him for some inquiries at about 1:00 to 2:00 o'clock in the morning of the next day. It [was] only at that time that he knew that his kumpadre, the victim, was already dead. At about 2:00 o'clock in the morning, he was brought by the policemen to the laboratory office allegedly for examination but the examination did not [push] through x x x because the crime lab at that time [had] no wax so they asked [them] to return on the 17th of October, 1998. Thereafter, [he] was told that the examination showed that the results gave a positive result and thereafter [he] was [i]ncarcerated.

"On re-direct examination, he testified that he was [i]ncarcerated on 19 October 1998. Between the dates of October 16 to October 18, 1998 while he was not yet [i]ncarcerated, he was in their barangay attending x x the wake of his kumpadre."^[9]

Ruling of the Trial Court

The RTC gave more credence and weight to the prosecution evidence. Debunking the defenses of denial and alibi, it accepted the testimony of the widow that her husband, prior to his death on that fateful night, declared that it was appellant who had gunned him down. It based its conclusion on her testimony and other pieces of circumstantial evidence, such as the presence of nitrate powder on the cast taken from the right hand of appellant; the bitter quarrel that ensued between him and the victim after the latter had cut off the former's water supply; the denial by appellant of the request of his neighbors (including the victim) to widen the right of way along the premises of his house; and hours before the victim was killed, the threatening remarks of appellant to the former's daughter. Hence, the trial court concluded that it was appellant who had shot the victim that night.

The lower court explained:

"x x x the most incriminating circumstance against herein accused was

the presence of gunpowder residue on his right hand which the defense failed to explain over the likelihood opined by the forensic chemist that he could have fired a gun. This, combined with the bitterness he had with the victim who was instrumental to the cutting off [of] the essential water supply to his house, in addition to the other personal differences between them that could sufficiently motivate him to take drastic action against the victim, makes the Court conclude that, there being no one else who could have done so, it could only be herein accused who indeed shot the victim to death, what with the word of his widow that before he collapsed into coma he was able to name him as the culprit, and of their 12-year old daughter that earlier that night of the shooting he uttered threatening remarks against her father.”^[10]

Hence, this appeal.^[11]

Issues

In his Brief, ppellant raises the following alleged errors for our consideration:

“1. The lower court erred in appreciating the testimony of the witness as a dying declaration.

“2. The lower court erred in convicting the accused when the prosecution failed to established the guilt of the accused beyond reasonable doubt.”^[12]

Succinctly worded, the main issue is the sufficiency of the prosecution evidence.

The Court’s Ruling

The appeal is partly meritorious.

Main Issue:

Sufficiency of the Prosecution Evidence

Appellant contends that the prosecution failed to prove beyond reasonable doubt that he had committed the crime charged. Supposedly, the RTC erred in giving full credence to the testimony of the widow that prior to the death of the victim, he had told her that it was appellant who had shot him. This “dying declaration” should have been rejected by the trial court, appellant argues, based on the testimony of Dr. Manuel Aves, the physician who had conducted the autopsy. According to the doctor, given the nature of the gunshot wound sustained by the victim on the right carotid artery, it would have been impossible for the latter to speak at all.

We are not persuaded.

The Court *a quo* was convinced of the credibility of the victim’s wife. The hornbook doctrine is that the trial court, which has the opportunity to observe the demeanor of the witnesses on the stand, is in the best position to discern whether they are telling the truth. Thus, unless tainted with arbitrariness or oversight of some fact or circumstance of significance and influence, its factual findings are accorded the highest degree of respect and will not be disturbed on appeal.^[13] In this case, no