

THIRD DIVISION

[G.R. No. 143005, November 14, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RICKY CASANGHAY ALIAS "BISAYA" (AT LARGE); JUANITO ESTRADA, ALIAS "BOY POGI" ALIAS "BOY ESTRADA" AND JOHN DOE, ACCUSED, JUANITO ESTRADA, ALIAS "BOY POGI" ALIAS "BOY ESTRADA," APPELLANT.

DECISION

CORONA, J.:

Before us is a petition for review of the Decision^[1] of the Regional Trial Court of Dagupan City, Branch 42, in Criminal Case No. 99-02835-D, convicting the appellant of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua* for the killing of Condrito Gonzales on March 3, 1999.

Herein appellant, Juanito Estrada, alias "Boy Estrada" and "Boy Pogi," together with his co-accused, Ricky Casanghay, alias "Bisaya", and a certain John Doe, was charged with the crime of murder as defined and penalized under Article 248 of the Revised Penal Code, as amended, in an amended information which reads:

That on or about the 3rd day of March, 1999, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, RICKY CASANGHAY @ Bisaya, JUANITO ESTRADA @ BOY ESTRADA @ BOY POGI and JOHN DOE, being then armed with firearms, with treachery, abuse of superior strength and with intent to kill one CONDRITO GONZALES, confederating together, acting jointly and helping one another, did then and there, willfully, unlawfully and criminally, attack, assault and use personal violence upon the latter by shooting him, hitting him several times on vital parts of his body, thereby causing his death shortly thereafter due to "Cardio respiratory arrest, shock due to massive bleeding secondary to 4th penetrating gunshot wound (on the) body and buttocks", as per Certificate of Death issued by Dr. Corlito T. de Guzman, of Pangasinan Medical Center, to the damage and prejudice of the legal heirs of said deceased, CONDRITO GONZALES, in the amount of not less than FIFTY THOUSAND PESOS (P50,000.00) Philippine currency, and other consequential damages.

Contrary to Article 248 of the Revised Penal Code, as amended by R.A. 7659.

Upon being arraigned on July 28, 1999, herein appellant, assisted by his counsel, entered the plea of "Not Guilty" to the charge of murder. Only the appellant underwent trial as the two other accused were never apprehended and have remained at large up to the present.

During the trial on the merits, the prosecution presented eight witnesses, namely, SP04 Anacleto Andaya, Arsenia Quilonio, Dr. Carlito de Guzman, Marcial Gonzales, Rogelio Español, Prosecutor Daniel Terrado, Carmen Gonzales and Shirley Estrada. On the other hand, the defense presented the appellant Juanito Estrada, Ruben Fabito, Ricardo dela Cruz and SP01 Esteban Martinez as witnesses. Thereafter, the prosecution presented the testimonies of Shirley Astadan and Roland Tandoc as rebuttal witnesses.

It appears from the evidence adduced by the prosecution that on March 3, 1999 at around 7:30 o'clock in the evening, Arsenia Quilonio was in the house of her brother, Marcial Gonzales, in Barangay Pugaro, Dagupan City.^[2] She was watching television with her sister-in-law (Marcial's wife), the latter's children, and another brother, Condrito Gonzales.^[3] Marcial was packing salted shrimps (alamang) outside the house for delivery to their customers.^[4]

During the show's commercial break, Condrito went out to buy cigarettes at Genaro Velasco's store which was about five meters away from the house of his brother, Marcial.^[5] Arsenia saw Condrito and heard him call for the store owner^[6] inasmuch as she was sitting by the window facing the store of Genaro.^[7] Suddenly, she heard gunshots and saw the appellant, Juanito Estrada, together with his co-accused, Ricky Casanghay, in the act of shooting Condrito at close range.^[8] The latter had already fallen to the ground but the appellant shot him two more times.^[9] Marcial also witnessed how Condrito was shot by Ricky and subsequently by Juanito as the deceased victim fell down. Another person was with Ricky and Juanito at the time of the shooting but the prosecution witnesses could not recognize him as they had never seen him before.^[10]

Condrito was still breathing when he was rushed by relatives to the Pangasinan Medical Center in Dagupan City.^[11] However, he died thirty minutes later due to cardio-respiratory arrest secondary to penetrating gunshot wounds.^[12]

According to the attending physician, Dr. Carlito de Guzman, M.D., Condrito sustained gunshot wounds in the nape, the mid-section of the back and the buttocks which passed through his scrotum and penis. The three gunshot wounds were fatal.^[13]

The shooting incident was reported to the Philippine National Police (PNP), main station, in Dagupan City the same evening by Marcial and his father, Teofilo Gonzales. Teofilo handed to SPO4 Anacleto Andaya two empty .45 caliber and one empty .223 caliber shells which he recovered from the crime scene. Another three empty .45 caliber shells and one deformed slug of the same caliber were also turned over to SPO4 Andaya by SP01 Esteban Martinez.^[14]

The appellant Juanito Estrada interposed the defense of alibi. Juanito claimed that he worked with Engr. Ricardo de la Cruz at the garbage dumpsite in Bonuan Boquig, Dagupan City, from February 20, 1999 up to May 22, 1999. During his employment, he stayed in the residence of Engr. dela Cruz in Bonuan Catacdang, Dagupan City.^[15]

According to Juanito, he worked in the garbage dumpsite on March 3, 1999. At 6:00 o'clock in the evening, he returned to the house of Engr. de la Cruz to cook food for

dinner. After eating his supper, he and Engr. de la Cruz washed the latter's vehicles before finally retiring to bed at 9:00 o'clock in the evening.^[16]

Appellant disclosed that he was basically a fisherman. He owned a motorboat and earned around P700 per day from fishing. He was working at the fishpond of Ruben Fabito, a balae of Engr. de la Cruz, when elements of the National Bureau of Investigation (NBI) arrested him on May 22, 1999.^[17]

Juanito maintained good relations with the victim and his family. He even supplied them with salted shrimps. Hence, he could not think of any reason for their accusation except for his decision to stop selling them salted shrimps.^[18] Defense witnesses Engr. Ricardo de la Cruz and Ruben Fabito corroborated the testimony of the appellant on its material points.^[19]

For his part, SP01 Esteban Martinez testified that he proceeded to the crime scene with P/Insp. Jose Vidal and SPO1 Lorenzo Nota from the Pugaro police sub-station in response to the report of a concerned citizen. The vicinity was dark although the store of Genaro Velasco was lighted inside. In the course of their investigation, they recovered three empty .45 caliber shells and a deformed slug of the same caliber which they turned over to SPO4 Andaya. They also gathered that the victim was killed by an unidentified lone assailant.^[20]

On February 21, 2000, the trial court rendered a decision the dispositive portion of which reads:

WHEREFORE, premises considered, the accused JUANITO ESTRADA alias "Boy Pogi" is hereby found guilty beyond reasonable doubt of the crime of MURDER as defined by Article 248 of the Revised Penal Code and penalized by RA 7659 otherwise known as the heinous crime law, and there being no aggravating circumstance proved during the trial attendant to the commission of the offense except of course treachery which qualified the killing of the victim to murder, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua*. Further, he is ordered to indemnify the family of the victim for the latter's death in the amount of P50,000.00. In addition, he has to pay the said heirs of the victim the amount of P39,000.00 as actual and compensatory damages and P50,000.00 as moral damages. He should pay also reasonable attorney's fees of P20,000.00, including appearance fee, as the heirs of the victim found it necessary to employ a private prosecutor to protect their interest. Costs should likewise be charged against the accused.

SO ORDERED.

Aggrieved by the decision, the appellant filed the instant petition^[21] with the following assigned errors:

I

THE TRIAL COURT ERRED IN RELYING UPON INCREDIBLE, HIGHLY DOUBTFUL AND INTRINSICALLY WEAK EVIDENCE TO PROVE AND ESTABLISH THE CHARGE OF MURDER AGAINST THE ACCUSED-APPELLANT.

II

THE TRIAL COURT ERRED IN RULING THAT THE EVIDENCE FOR THE PROSECUTION IS SUFFICIENT FOR THE CONVICTION OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT ERRED IN ADMITTING AS EVIDENCE AGAINST THE ACCUSED-APPELLANT AN ALLEGED OFFER OF COMPROMISE BY THE LATTER THROUGH HIS SISTERS AND WIFE.

IV

THE TRIAL COURT ERRED IN COMPLETELY DISREGARDING THE DEFENSE OF ALIBI PUT UP BY THE ACCUSED-APPELLANT.

V

THE TRIAL COURT ERRED IN FINALLY CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF MURDER BY DIRECT PARTICIPATION.

Appellant points out that the testimonies of Marcial Gonzales and Arsenia Quilonio are not worthy of credence. He argues that Marcial refused to name the assailants of his deceased brother when he reported the shooting incident to the police authorities on March 3, 1999 whereas, according to Arsenia's testimony, they were watching "Esperanza" contrary to her sworn statement that they were watching "Mula sa Puso" when the shooting occurred. Hence, the trial court erred in disregarding his alibi even though the same was corroborated by credible witnesses.

According to appellant, the trial court also erred when it declared that he must come up with convincing and satisfactory evidence in his defense lest be convicted of the crime of murder. The declaration violates the rule on burden of proof in criminal cases and the right of the appellant to be presumed innocent until the contrary is proved.

Besides, the spent shells and one deformed slug recovered from the crime scene were not subjected to ballistic examination nor a paraffin test conducted to determine if the appellant actually fired a gun.

In addition, the appellant denies having offered any compromise to the family of the deceased victim. Even on the assumption that there was an attempt at compromise, the evidence of the prosecution does not show that he consented, much less made such an attempt, to settle the case.

The resolution of the instant petition clearly rests upon the credibility of witnesses. As a general rule, the trial court's evaluation of the credibility of witnesses is viewed as correct and entitled to the highest respect on appeal because it is more competent to come to its conclusion, having had the opportunity to observe the witnesses' demeanor and deportment on the stand, and the manner in which they gave their testimonies.^[22] An exception is when there is a showing that the trial court clearly overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could alter the result of the case.^[23]

We note that the presence of Arsenia Quilonio and Marcial Gonzales near the crime scene was not effectively disputed by the defense.^[24] Likewise, there appears to be no reason to doubt their ability to identify the appellant as one of the perpetrators of the crime for the reason that Arsenia was seated by the window facing Genaro's store while Marcial was outside attending to their business. From their respective positions, they had an unobstructed view of the crime as it occurred. The vicinity was even illuminated by a lamp post aside from the light emanating from the store of Genaro.^[25] Furthermore, no ill-motive can be imputed to the prosecution eyewitnesses. Appellant himself acknowledged the absence of any motive that could have impelled Marcial and Arsenia to implicate him in the fatal shooting of their late brother. Their relationship with the deceased victim did not necessarily mean that they were biased. On the contrary, such relationship would ordinarily deter these witnesses from indiscriminately implicating just anybody in the crime.^[26] Their natural interest would be to identify and secure the conviction of the real culprit to attain justice for the death of their brother.

The fact that Marcial identified the appellant as one of the perpetrators of the crime before the police on March 5, 1999, or two days after the shooting,^[27] does not militate against his credibility. The refusal of Marcial and his late father, Teofilo Gonzales, to divulge the names of the assailants when they first reported the killing to the police in the evening of March 3, 1999 was due to fear for their safety. According to SP04 Andaya, they recognized the assailants but were reluctant to divulge their names because one of them was a known henchman or bata-bata of a policeman assigned at the Pugaro police sub-station.^[28] It has been held that failure to immediately reveal the identity of the perpetrator of a felony does not affect, much less impair, the credibility of witnesses, more so if such delay is adequately explained as in the case at bar.^[29]

The alleged discrepancy between Arsenia's sworn statement and her court testimony regarding the television program they were watching at the time of the killing is more apparent than real. Arsenia clarified that the two television programs were aired successively. "*Mula sa Puso*" was ending, to be followed thereafter by "*Esperanza*," when she heard the burst of gunfire from outside, thus:

Q. Now you said that you went to the house of your brother Marcial on March 3, 1999 in the evening to watch TV program Esperanza, is it not?

ATTY. MERRERA:

We object Your Honor, that question has been answered.

ATTY. BAUTISTA:

Preliminary, Your Honor.

COURT:

Witness may answer.

A. No, sir when I was about to get inside the house, we were watching "*Mula sa Puso*" and this incident happened in the evening when the TV Program Esperanza was about to start.^[30]