

FIRST DIVISION

[G.R. No. 137036, March 14, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERNANDO DE MESA AND TWO (2) JOHN DOES, ACCUSED.**

HERNANDO DE MESA, ACCUSED-APPELLANT.

D E C I S I O N

PUNO, J.:

In the evening of October 15, 1996, Patricio Motas, Barangay Chairman of Barangay Sta. Cruz Putol, San Pablo City, was shot dead while playing a card game with some townmates at a neighborhood store. One of those implicated in the killing was Hernando de Mesa, the appellant in this case.

Accused-appellant, together with two unidentified persons, were charged before the Regional Trial Court of San Pablo City, Branch 32 with the crime of murder under the following information:^[1]

"The undersigned Assistant City Prosecutor accuses HERNANDO DE MESA and two (2) John Does of the crime of MURDER under Art. 248 of the Revised Penal Code, as amended by RA 7659, committed as follows:

'That on or about October 15, 1996, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with treachery and evident premeditation, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously shoot one PATRICIO MOTAS with a long firearm with which accused Hernando de Mesa was then conveniently provided, thereby inflicting multiple wounds upon the said victim which caused his immediate death.

CONTRARY TO LAW.'

City of San Pablo, February 26, 1997.

(SGD)ALBERTO B. DORIA
Assistant City Prosecutor"

The trial court issued a warrant of arrest against accused-appellant on March 3, 1997.^[2] The return of the warrant, however, showed that accused-appellant could not be located at his given address and it was reported that he was hiding somewhere in Quezon province to evade his arrest.^[3] An alias warrant of arrest was issued by the trial court on August 29, 1997.^[4] On February 14, 1998, elements of the PNP 49th Provincial Mobile Group apprehended accused-appellant in Calapan,

Oriental Mindoro. He was transferred and detained at San Pablo City Jail on March 1, 1998.^[5]

Accused-appellant was arraigned on March 23, 1998 where he pleaded not guilty.^[6] Trial ensued.

Jose Umali, a resident of Barangay Sta. Cruz Putol, San Pablo City, testified that he has known accused-appellant since birth as they live in the same barangay. On October 15, 1996, around 8:00 o'clock in the evening, he was playing "tong-its", a card game, with Bernie Padua and Florante Alvero at the store owned by Ruby Padua in Barangay Sta. Cruz Putol, San Pablo City while their other neighbors, Ading, Nido, Pungay and Barangay Chairman Patricio Motas, looked on. While they were playing, Umali felt the need to relieve his bowels. He excused himself from the game and went to the back of the house around 35 meters from the store. Barangay Chairman Motas took over his place. While he was relieving himself, Umali heard a loud burst of gunfire coming from Padua's store. Moments later, he saw accused-appellant followed by two men pass by. They were four meters away from him and they were walking fast. He saw that accused-appellant carried a long firearm. Then he heard one of accused-appellant's companions ask him, "Ano sa palagay mo pare?" Accused-appellant replied, "Sigurado akong patay iyong putang inang si Chairman." The three headed toward the direction of Barangay San Vicente. After they were gone, Umali went to the side of the road near Padua's store. He heard from the people that Motas had been shot and was brought to the hospital. Umali went home. The following day, he learned that the victim had died. When asked by the court how he recognized accused-appellant, he replied that he knew him by his movement. He also said that there was light coming from the house around 25 meters away.^[7]

Rommel Maghirang, also a resident of Barangay Sta. Cruz Putol, San Pablo City, corroborated the testimony of Umali. He testified that on October 15, 1996, around 8:00 o'clock in the evening, he was driving his car in Barangay Sta. Cruz Putol, San Pablo City within the vicinity of Ruby Padua's store. As he was making a u-turn about 15 meters from the store, he saw accused-appellant and two men walking near the house of a certain Pablo Itat which was about 8 to 10 meters from Padua's store. He noticed that accused-appellant was carrying a long firearm known as "de sabog". He recognized accused-appellant because the headlight of his car was focused on them without any obstruction. He even noticed accused-appellant tilt his head to the left as if avoiding the light. On October 16, 1996, he heard from his neighbors that Barangay Chairman Motas had been killed at the store of Ruby Padua. Maghirang stated that he has known accused-appellant since childhood as they were classmates in grade school and they lived in the same barangay. He said that he did not know the companions of accused-appellant.^[8]

Edna Motas, wife of the victim, testified that her husband, Patricio Motas, died on October 15, 1996 after being gunned down by assassins. He was Barangay Chairman at the time. She tearfully recounted that on that fateful night, she was roused from her sleep when she heard a neighbor shouting, "May tama si Chairman!" She stood up and went out to the street. She saw the people boarding her husband on a jeepney to bring him to the hospital. She followed them to San Pablo City District Hospital. A hospital staff who earlier asked her if she was the wife of the victim told her to go inside the room where he laid. As she stepped into the

room, she saw her husband lying dead. She noticed that he had gunshot wounds at the back. She later learned of the identity of the assailant from Romy Aliazas, a witness in this case who also died after being shot. She said that Aliazas identified the suspect as Hernando de Mesa. Edna has known accused-appellant for 17 years. She further testified that accused-appellant had an axe to grind with her husband because of the confrontations they had in the past. On one occasion, accused-appellant was drunk and was creating trouble. To quiet him down, Barangay Chairman Motas boxed him. Accused-appellant filed a case against Barangay Chairman Motas but lost. On another occasion, accused-appellant was caught stealing fruits from a lanzones tree under the care of Barangay Chairman Motas. The latter confronted him and they had a heated exchange of words. Accused-appellant threatened Barangay Chairman Motas, "May araw ka rin Chairman. Papatayin kita." Edna also testified on the expenses incurred for the funeral and burial of her husband, as follows: P17,000.00 for funeral services,^[9] P10,000.00 for food, P500.00 for the church, and P4,500.00 for the memorial lot.^[10]

Dr. Azucena Ilagan-Bandoy, Assistant City Health Officer, San Pablo City, testified that she conducted an autopsy on the body of Patricio Motas on October 16, 1996. She prepared a necropsy report^[11] stating her findings in the autopsy. She found eight gunshot wounds on the body of the victim. She also recovered deformed fragment pellets from his body. She turned over the recovered fragments to the PNP Investigation Section, San Pablo City. The necropsy report stated that the cause of death was shock and hemorrhage due to gunshot wounds involving the left kidney, liver and descending colon of the large intestine. The autopsy also revealed that the assailant was at the back of the victim when he was shot.^[12]

Pinky Almazan, Stenographic Reporter at the Office of the City Prosecutor, stated that she is the secretary of Prosecutor Alberto Doria who was assigned to conduct the preliminary investigation of accused-appellant in connection with the killing of Barangay Chairman Motas. She testified that accused-appellant did not appear during the preliminary investigation scheduled on February 26, 1997 despite service of notice.^[13]

Ruben Chumacera, former head of the Investigation Section of PNP San Pablo City, testified that on November 12, 1996, he conducted an investigation regarding the death of Patricio Motas. Prior to that date, the police officers on duty relayed to the police headquarters that a wounded man was brought to the hospital. He instructed Police Officers Armando Demejes and Norberto Enrique to go to the hospital to conduct an investigation. Following his order, they proceeded to the hospital and then to the scene of the crime. They reported that the victim, Patricio Motas, Barangay Chairman of Barangay Sta. Cruz Putol, San Pablo City, was dead on arrival. The report was entered into the police blotter. Considering that the assailants have not been identified, Chumacera referred the incident to the Intelligence Section for follow-up. On November 10, 1996, members of the Intelligence Section took the statement of Romy Aliazas who pointed to Hernando De Mesa as the perpetrator of the crime. After perusal and examination of the statement of Romy Aliazas, Chumacera, together with SPO1 Gil Edrinal went to the scene of the crime and summoned the witnesses. There Romy Aliazas narrated and demonstrated all that he saw during the incident. Chumacera drew a sketch based on the narration of Romy Aliazas.^[14]

For the defense, Chona De Mesa, wife of the accused, recounted their activities during the whole day of October 15, 1996. She said that in the morning, while she cooked breakfast, her husband prepared the materials that they would use for gathering fruits which they would later sell in the market. After breakfast, she and her husband walked to Barangay San Vicente. They passed by her parents' house before proceeding to the jackfruit farm owned by a certain Ma Mundo. After some negotiations with the owner of the farm, accused-appellant started picking jackfruit. Chona returned to her parents' house to get a bicycle. They placed the harvested fruits on the bicycle and brought them to her parents' house. After lunch, the spouses walked to Barangay Sta. Ana and gathered more crops. In the afternoon, after depositing the fruits at her parents' house, the spouses walked back to their home in Barangay Sta. Cruz Putol. They reached their home at dusk. She prepared supper while her husband lied on the sofa in the living room to rest. He told her he was very tired. They had dinner at 7:00 o'clock in the evening. After eating, her husband went back to the sofa and watched television but he fell asleep while watching. Chona continued with her chores. Chona testified that accused-appellant fell asleep before 8:00 o'clock in the evening. He allegedly slept on the sofa from 7:00 o'clock until 10:00 o'clock and he transferred to the bedroom at 10:00 o'clock that evening.^[15]

Accused-appellant also testified for his defense. He stated that he was engaged in the business of buying fruits from farm-owners and selling them at the public market. In the morning of October 15, 1996, before breakfast, he prepared the sacks that he would use for gathering fruits. After breakfast, he and his wife started walking to Barangay San Vicente, San Pablo City. They reached their destination at 9:00 o'clock in the morning. They went to the plantation owned by a certain Ma Mundo where he picked some jackfruit. As he gathered the fruits, his wife went to the house of his in-laws to get his bicycle. After paying the farm-owner, they loaded the gathered fruits on his bicycle and brought them to the house of his in-laws. After having lunch at his in-laws' house, they rested for a while and then proceeded to Barangay Sta. Ana to gather more fruits for selling. They returned to his in-laws' house at 5:00 o'clock in the afternoon. They covered the fruits with sacks and stored them there. Accused-appellant and his wife walked back to Barangay Sta. Cruz Putol and reached their house around 6:00 o'clock in the evening. Accused-appellant rested for half an hour before having dinner. After eating, he watched the news on the television but fell asleep due to exhaustion. It was already morning when he woke up. Accused-appellant said that he was not aware of any unusual incident that could have disturbed his sleep that night. The next day, October 16, he learned from his neighbors that their barangay chairman had been killed. He did not know who was responsible for the killing. He said that he and his wife attended the wake of their barangay chairman.^[16]

Accused-appellant further testified that it was in November 1996 that he first learned that he was a suspect in the killing of Barangay Chairman Motas. Before that time, several unidentified armed persons wearing black clothes and bonnet surrounded their house. One night, he heard the dogs barking and he noticed some noise coming from outside the house. He peeped through the wall and he saw several persons garbed in black walking around their house. When his wife opened the window, one of them poked a gun at her. The incident happened twice. Accused-appellant reported the matter to their barangay councilman. Fearing for their safety, his wife convinced him to leave their abode and move to another place. Heeding his

wife's advice, accused-appellant went to Oriental Mindoro where he worked as calamansi picker and copra maker. Accused-appellant said that he did not bring his children because they were still young. He also did not execute an affidavit concerning this case because he was afraid of the unidentified persons who were harassing them.^[17]

On rebuttal, Edna Motas testified that accused-appellant never attended the wake of her husband.^[18]

The trial court found accused-appellant guilty beyond reasonable doubt of the crime charged. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing considerations, the Court finds the accused HERNANDO DE MESA GUILTY beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code as amended by Republic Act 2659 with the aggravating circumstances of commission of the crime in contempt of or assault to public authorities and at nighttime. He is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the costs.

Accused is hereby ordered to indemnify the heirs of the victim Barangay Chairman Patricio Motas the sums of P50,000.00 as death indemnity; P50,000.00 as moral and exemplary damages; P32,000.00 for funeral and other incidental expenses; unearned income of P250,000.00 and P20,000.00 as attorney's fees and litigation expenses.

SO ORDERED."

Accused-appellant now comes to this Court seeking the reversal of the decision of the trial court. He raises the following arguments:

- "1. The trial court gravely erred in convicting the accused of the crime charged despite the manifest lack of evidence to warrant conviction.
2. The trial court gravely erred in appreciating the aggravating circumstance of treachery."^[19]

We affirm the judgment of conviction. We find that although the prosecution did not adduce direct evidence to prove the guilt of accused-appellant, it nevertheless presented sufficient circumstantial evidence to support his conviction.

Direct evidence of the killing is not indispensable for convicting an accused when circumstantial evidence can sufficiently establish his guilt.^[20] There can be a judgment of conviction when the circumstances proved constitute an unbroken chain of events that leads to one fair and reasonable conclusion pinpointing the accused, to the exclusion of all others, as the perpetrator of the crime.^[21] Circumstantial evidence is sufficient for conviction if:

- "(1) There is more than one circumstance;
- (2) The facts from which the inferences are derived are proven; and