

THIRD DIVISION

[G.R. No. 132160, June 19, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIO DE LEON; FREDDIE DE LEON AND PO3 CESAR CABILDO
(AT LARGE), ACCUSED, MARIO DE LEON AND FREDDIE DE LEON,
ACCUSED-APPELLANTS.**

D E C I S I O N

GONZAGA-REYES, J.:

Appellant Freddie De Leon, along with Mario De Leon and PO3 Cesar Cabildo (at large), were charged with the crime of murder in Criminal Case No. Q-93-47026 before the Regional Trial Court of Quezon City, Branch 102,^[1] under an amended Information^[2] which reads as follows:

"That on or about April 15, 1993 in Quezon City and within the jurisdiction of this Honorable Court, above-named accused while conspiring, confederating and mutually helping one another with the use of treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack and assault the victim Danilo Añez by shooting the victim several times with a gun thereby inflicting upon the victim gunshot wounds in the different parts of his body which cause his instantaneous death.

CONTRARY TO LAW."

On their arraignment, appellant Freddie de Leon and Mario de Leon pleaded not guilty. PO3 Cesar Cabildo remained at large. Trial in due course proceeded only against Freddie de Leon and Mario de Leon. Thereafter, the trial court rendered the assailed decision^[3] dated October 17, 1997, the dispositive portion of which reads:

"WHEREFORE, the Court finds accused Mario de Leon and Freddie de Leon guilty beyond reasonable doubt of the crime of Murder as defined in Article 248 of the Revised Penal Code, and considering that the crime was committed prior to the effectivity of R.A. 7659 on December 31, 1993, the Court imposes upon each of the accused Mario de Leon and Freddie de Leon the penalty of reclusion perpetua. Accused Mario de Leon and Freddie de Leon are likewise ordered to pay in solidum the legal heirs of deceased Danilo Añez, as indemnity, in the amount of fifty thousand (P50,000.00) pesos. Costs against the accused."

Only Freddie de Leon filed a Notice of Appeal.^[4]

In its Brief, the Office of the Solicitor General presented the following narration of facts that led to appellant's conviction:

"In the morning of April 14, 1993, the victim Danilo Añez told his wife, Leony Añez, that after finishing his work that day he would be going to the wake of Jojo de Leon at Doña Carmen, Fairview, Quezon City (pp. 4-5 & 15, *tsn*, Oct. 23, 1993). The following morning of April 15, 1993 at around 4:00 a.m., since the victim had not yet come home, Leony and her brother-in-law, Efren Añez, proceeded to fetch him at the place of the wake (pp. 4-5, *ibid.*). Approximately three ^[3] meters from the place while still on board the passenger jeepney they took, Leony and Efren, saw about five ^[5] armed men forcing the victim to board an old white Ford Fiera with license plate No. NAA 711 (pp. 4-5, *id.*).

Since the place of the wake was well lighted, Leony recognized the accused Mario de Leon and appellant Freddie de Leon among the armed persons who were forcing her husband to board the Ford Fiera (pp. 6-7, *id.*). Leony knew appellant Freddie de Leon very well since he was also residing in the area known as "Riverside" where she and her husband lived (p. 6, *id.*). Leony also noticed that appellant was carrying an armalite and that his brother Mario was also holding a gun (pp. 9-10, *tsn*, Nov. 15, 1998).

Leony went home and sought the help of her mother-in-law in locating her husband (p. 8, *tsn*, Oct. 20, 1997). However, not long thereafter, her husband's best friend, Elpidio Puwayen, arrived informing her that her husband was found dead on Icon Street, near the Francisco High School (p. 8, *id.*). Leony immediately went to the place but her husband's cadaver had already been taken by the police (*id.*)

Police Major Florante F. Baltazar, medico-legal officer and Chief of the PNP Crime Laboratory, conducted an autopsy on the cadaver of the victim at 8:30 a.m. on April 15, 1993 at the morgue of the Saint Matthew Funeral Parlor (p. 6, *tsn*, Aug. 16, 1994). Major Baltazar found that the victim sustained six ^[6] external injuries, four ^[4] of which were gunshot wounds (pp. 6-7, *ibid.*). The fatal gunshot wounds were those sustained by the victim in the head and in the right side of his body (p. 11, *id.*). Based on the measurements of the entry wounds, the doctor opined that the guns used were either .38 caliber or .45 caliber pistols (p. 10, *id.*).

The victim's cadaver was later brought home at around six o'clock in the evening by the Saint Angelus Funeral Home (p. 9, *id.*). At that time, Leony was pregnant (p. 10, *id.*). She delivered her baby on April 17, 1993, barely two ^[2] days after her husband was killed (*ibid.*). They were afraid to report what Leony saw to the police because appellant and Mario were always seen at Station 5, (or Precinct) "lagi silang nakaistambay sa Station 5" (*id.*). However, on June 25, 1993, Leony mustered enough courage to go the PACC where she revealed the

identities of her husband's assailants. She executed her affidavit and sought the assistance of then Vice President Joseph Estrada (pp. 10-11, *id.*; pp. 21-22, *tsn*, Nov. 15, 1993).

The shooting of the victim that fateful morning was actually witnessed by Edgardo Miranda who was at the premises of the San Francisco High School in Mangahan, Barangay Commonwealth, Quezon City (p. 4, *tsn*, Nov. 17, 1993) which he was assigned to guard from 10:00 p.m. up to 4:00 a.m. (p. 5, *ibid.*) At around 4:00 a.m. on said April 15, 1993, Miranda had just come out of the school gate on his way home when he saw the assailants and the victim along Ecol's Street, proceeding towards his direction. He saw the victim being held by appellant and co-accused Mario de Leon, with Cesar Cabildo walking ahead of them holding a short firearm (p. 14, *tsn*, Nov. 17, 1993; p. 15, *tsn*, Dec. 17, 1993).

Miranda recognized appellant Freddie de Leon having known him since 1984 or 1985 in Mangahan where the latter had first resided (pp. 13 & 23, *tsn*, Nov. 22, 1993). He also recognized the accused Mario de Leon who used to be his companion as barangay tanod under Councilor Gil Villanueva (*ibid.*). He also knew and recognized Cabildo, whom he met sometime in 1989 as a police officer assigned at Station 5 [or Precinct], Quezon City, and who used to go to Mangahan in 1990 (p. 9, *tsn*, Nov. 17, 1993; pp. 13-14, *tsn*, Nov. 22, 1993). Miranda recognized the members of the group while they were approaching because there were two [2] lighted Meralco posts along Ecol's street (p. 17, *tsn*, Nov. 22, 1993), one of which the group had already passed by, and the other was near the store, around 20 to 25 meters away from the gate of the school (*ibid.*).

Sensing trouble, Miranda went back inside the school (p. 6, *tsn*, Nov. 17, 1993; p. 8, *tsn*, Nov. 22, 1993). When he was inside the school premises, Miranda heard the victim exclaim "Pare, ano bang kasalanan ko?", after which he heard gunfire (p. 24, Nov. 22, 1993). Miranda immediately climbed the 10 meter high concrete fence of the school to see what was happening (p. 7, *tsn*, Nov. 17, 1993). About 15 meters from where he was, he saw the de Leon brothers shooting the victim while Cabildo watched them (pp. 7-8, *id.*). Miranda heard four [4] more gunshots (p. 9, *id.*). Miranda clearly saw the shooting of the victim as the scene was illuminated by an electric light from the nearby store and from the Meralco post around 20-25 meters away from the gate of the school (p. 8, *id.*; pp. 16-17, *tsn*, Nov. 22, 1993). After the victim fell, Cabildo and the de Leon brothers walked away from the scene of the crime (p. 11, Nov. 17, 1993).

When Miranda went out of the gate, a certain Major Neron also came out of his house (p. 11, *ibid.*). Upon seeing the dead victim, Major Neron requested Miranda to call the police at Precinct 5 (p. 11, *id.* and pp. 23-24, *tsn*, Dec. 17, 1993). As soon as the police arrived at the scene, Miranda went home as he did not wish to get involved in the investigation (pp. 11 to 12, *tsn*, Nov. 17, 1993). Later, however, Miranda executed his "salaysay" before the PACC pointing appellant as one of the assailants

(pp. 27-28, Dec. 17, 1993).

On July 16, 1993, both the de Leon brothers were arrested by the PACC (p. 36, Records). The following day, on July 17, 1993, accused Mario de Leon, with the assistance of counsel, Atty. Francisco Sababan, executed his extrajudicial confession attesting to the fact that he and Cabildo killed Danilo Añez (pp. 4-13, tsn, Feb. 23, 1994)."[5]

Appellant interposed denial and alibi as his defenses. According to him, he used to work as a volunteer reporter of DZEC radio and the newspaper "Taliba". On April 13, 1993, Freddie de Leon's brother Rosendo de Leon was killed and a suspect for the said killing was apprehended and detained on the same day at Police Station 5 in Fairview, Quezon City, which happens to be a regular post of appellant as a newsbeat reporter. On April 14, 1993 at about 7 o'clock in the evening, appellant was fetched by SPO2 Romeo Campo of the said station to confer with the suspect who intimated that he will reveal the identity of the real culprits if he is made a state witness. From then on, appellant never left Station 5 waiting for news to cover. Finally, at 4 o'clock in the morning of the next day, or on April 15, 1993, a report of a shooting incident was received by the station. Freddie de Leon proceeded to the scene of the crime together with the responding policemen, namely SPO2 Benuel Rosello and PO2 Rodel Diongco. They arrived at the place at around 4:30 in the morning. Upon arrival, Freddie de Leon immediately took pictures of the victim whose identity was later learned to be Danilo Añez y Mariano based on the identification card in his wallet. Appellant stayed at the scene of the crime for almost two (2) hours and proceeded back to the police station at past 6 o'clock in the morning. In short, appellant claims that he was in Police Station 5 in Fairview, Quezon City, from 8 o'clock in the evening of April 14, 1993 up to 4 o'clock in the morning of April 15, 1993. He left the station only at 4 o'clock in the morning to respond to the gun shooting incident.

The trial court held that the prosecution established the guilt of the accused beyond reasonable doubt "through the clear, positive, straightforward and convincing testimony of witnesses Leony Añez, widow of the deceased, and Edgardo Miranda." Leony Añez testified that she saw the accused Mario de Leon and Freddie de Leon with two others dragging her husband to an old white Ford Fiera at around 4 o'clock in the morning of April 15, 1993. Edgardo Miranda, a barangay tanod patrolling the area, testified that at about the same time, while he was coming out of the San Francisco High School at Mangahan, Barangay Commonwealth, Quezon City, he saw the deceased with Cesar Cabildo, Mario de Leon and Freddie de Leon walking towards the direction of the school and he saw Mario de Leon and Freddie de Leon shoot Danilo Añez.

In the instant appeal, appellant submits for the consideration of this Court the following alleged errors:

I

THE LOWER COURT ERRED IN CONVICTING FREDDIE DE LEON OF THE CRIME OF MURDER CONSIDERING THAT THERE EXISTS REASONABLE DOUBT AS TO HIS IDENTITY AND ALLEGED PARTICIPATION IN THE

CRIME, IN THAT:

1. HE WAS NOT AT THE SCENE OF THE CRIME WHEN IT WAS SUPPOSEDLY COMMITTED;
2. THE TESTIMONY OF PROSECUTION WITNESSES ARE FULL OF LOOPHOLES AND THUS, GROSSLY UNRELIABLE TO SUSTAIN CONVICTION;
3. THE SUPPOSED EXTRAJUDICIAL CONFESSION OF ACCUSED MARIO DE LEON CONSPICUOUSLY REVEALS THAT FREDDIE DE LEON HAD NO PARTICIPATION WHATSOEVER IN THE KILLING OF DANILO AÑEZ;
4. IT WOULD BE HIGHLY ILLOGICAL AND CONTRARY TO HUMAN EXPERIENCE FOR FREDDIE DE LEON, ASSUMING FOR THE SAKE OF ARGUMENT THAT HE WAS INDEED AMONG THOSE WHO SHOT DANILO AÑEZ, TO HAVE COME TO THE SCENE OF THE CRIME BARELY THIRTY (30) MINUTES AFTER IT WAS SUPPOSEDLY COMMITTED, TOOK PICTURES AND TOOK STEPS TO INFORM THE VICTIM'S RELATIVES; and
5. FREDDIE DE LEON WAS NOT ARRESTED FOR THE OFFENSE OF MURDER BUT FOR THE ALLEGED ILLEGAL POSSESSION OF FIREARMS. IN FACT, HE WAS ARRESTED ILEGALLY AND, HAD HE NOT FILE (sic) A PETITION FOR HABEAS CORPUS, HE WOULD NOT HAVE BEEN FORMALLY CHARGED IN COURT AND ONLY AFTER ABOUT EIGHTY FIVE (85) DAYS AFTER HIS ILEGAL ARREST.

II

THE SUPPOSED "POSITIVE IDENTIFICATION" OF FREDDIE DE LEON BY PROSECUTION WITNESS EDGARDO MIRANDA CANNOT BE TAKEN AT FACE VALUE AND THUS, INSUFFICIENT TO SATISFY THE EXACTING STANDARD OF GUILT BEYOND REASONABLE DOUBT.

III

THE LOWER COURT ERRED IN SUMMARILY DISREGARDING FREDDIE DE LEON'S DEFENSE.

In sum, appellant questions the trial court's: (1) failure to give credence to his defense of alibi; (2) assessment of the credibility of the prosecution witnesses; and lastly, its (3) appreciation of the sufficiency of the evidence of the prosecution.

After a thorough and careful examination of the records, this Court is convinced beyond reasonable doubt that appellant is, indeed, guilty as charged.

Firstly, this Court is not persuaded by appellant's alibi that at the time of the killing he was at Police Station 5 in Fairview, Quezon City, following up the developments