

SECOND DIVISION

[G.R. No. 125867, May 31, 2000]

BENJAMIN RIVERA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

Petitioner BENJAMIN RIVERA was charged with murder for having allegedly shot to death one Renato U. Camacho with a handgun the killing being qualified by treachery.^[1]

On 20 February 1992 the trial court found petitioner guilty as charged with the mitigating circumstance of voluntary surrender being appreciated in his favor and sentenced him to ten (10) years and one (1) day of *prision mayor* maximum, as minimum, to seventeen (17) years four (4) months and one (1) day of *reclusion temporal* maximum, as maximum. The court *a quo* further ordered petitioner to indemnify the heirs of Camacho in the amount of P50,000.00 for his death, P30,000.00 for moral damages, and P9,770.00 for actual damages.^[2]

The evidence shows that on 18 January 1989 between seven o'clock and eight o'clock in the evening Renato U. Camacho together with Leonora Rudio, Merle Fernandez and Rosario Olipas was playing mahjong in a hovel in front of the house of a certain Tomasa Rivera at West Poblacion, Natividad, Pangasinan. Suddenly a gun was fired hitting Camacho on the head. Instantaneously he slumped dead.

During the time that the victim Renato U. Camacho was playing mahjong, his wife Jenny Camacho was talking with a certain Alejandria Reinoso and the latter's son in front of their house when Jenny saw petitioner Benjamin Rivera and a companion known only as Babay pass by. Knowing petitioner, she asked him where he was going, but Rivera replied that he was going to heaven. Jenny said that she was going too far, but he simply laughed it off and proceeded to his mother's place where mahjong was being played. According to Jenny, she saw petitioner converse with her late husband for about five (5) minutes in a house in front of Tomasa Rivera's house. Then Jenny brought her children home after which she returned to Mrs. Reinoso's house.

After conversing with Mrs. Reinoso for about thirty (30) minutes, Jenny walked over to the hovel where her husband was playing mahjong. The place was lighted with a fluorescent lamp. Some fifteen (15) meters away from where she stood Jenny saw petitioner at the window of his mother's house aiming a short gun at the mahjong players. Before she could shout the gun went off. Shocked, Jenny rushed home as she was very nervous.

About thirty (30) minutes later, a policeman by the name of Lando Arciaga went to

her house and told her that her husband was shot in the head. Upon hearing this Jenny collapsed. She regained consciousness only after thirty (30) minutes. According to Jenny, before the fatal incident her husband had told her that if anything should happen to him it must be petitioner who should be held responsible as he (petitioner) suspected him of having stolen his goat.^[3]

Rosario Olipas, one of those playing mahjong with the victim when he was shot, testified that petitioner and a companion, known to her only as Babay, arrived at Tomasa Rivera's house between 7:00 o'clock and 8:00 o'clock in the evening. An argument ensued between Renato Camacho and petitioner who was charging the former with having stolen his goat. Of course, Renato denied the accusation and proceeded to play mahjong. Petitioner then went inside the house and drank beer with his companion Babay. As described by Rosario, a wall made of hollow blocks with a window separated the place where petitioner was drinking and the hovel where mahjong was being played. Suddenly, according to Rosario she heard a gunshot so she covered her ears. Then she saw the victim, Renato Camacho, slump on top of the mahjong table with blood oozing from his head.^[4]

Lourdes Camacho, mother of Renato, testified that petitioner was her neighbor at Poblacion West, Natividad, Pangasinan; between 7:00 to 8:00 o'clock in the evening of 18 January 1989, while she was in her house, she heard a gunshot; shortly after, she was informed by policemen that her son had been killed; she immediately informed the policemen that it was petitioner who killed her son because three (3) days before his death he told her that petitioner suspected him of having taken his goat, and finally, that there was a time when petitioner fired his gun near her house at an early dawn although she did not report the matter to the police authorities as she thought that as barangay councilman he was authorized after all to carry a gun.

Dr. Perfecto Tabangin, Municipal Health Officer of Natividad, Pangasinan, conducted an autopsy on the cadaver of Renato Camacho. He issued a medico-legal report reflecting his findings that (a) the body was in a state of *rigor mortis* and (b) presence of gunshot wound at the right occipital region penetrating the skull, shattering the brain tissue exiting over the left occipital region.^[5]

Petitioner interposed alibi in his defense. He alleged that the whole morning of 18 January 1989 he was in Barangay Cacandiungan, Natividad, Pangasinan, three (3) kilometers away from the scene of the crime, preparing his field to be planted with onions and that in the evening he watched over his sick daughter whom he brought to the doctor the following day.

But the trial court was not persuaded by the defense. It disregarded its version and convicted petitioner as charged.

The Court of Appeals affirmed the conviction of petitioner by the trial court notwithstanding the manifestation and motion of the Solicitor General recommending acquittal in view of the testimonies of the prosecution witnesses which he perceived to be "highly improbable and nebulous." Hence this petition for review on certiorari assailing the credibility of the prosecution witnesses for reasons summarized as follows: (a) the medico-legal finding that the trajectory of the bullet was straight was contradictory to the testimony of witness Jenny Camacho that "the assailant was at the place where the elevation was higher than her height;"^[6] (b)

the immediate reaction of Jenny Camacho, who was the wife of the victim, in fleeing after the gunfire, instead of finding out if her husband was all right, describing it as an unnatural behavior of a wife who allegedly had been told by her husband prior to his murder that petitioner had evil designs against him; (c) the mahjong players present at the scene of the crime failed to identify petitioner as the assailant; (d) the testimony of witness Jenny Camacho that on the right side of the victim was Sulpicio Rivera was inconsistent with her claim that the assailant was positioned at the right side of the victim because then it would be Sulpicio Rivera who would have been hit and not the victim; and, (e) witness Jenny Camacho failed to immediately give her statement concerning the participation of petitioner as the perpetrator of the crime; hence, the recommendation of the Solicitor General that he be acquitted.
[7]

We disagree. The unbending jurisprudence is that the findings of the trial court on the matter of credibility of witnesses, especially if affirmed by the Court of Appeals, are entitled to the highest degree of respect and will not be disturbed on appeal. We are not convinced that the prosecution witnesses falsely testified against petitioner as no evil motives were attributed to them. Further, the detailed testimony of eyewitness Jenny Camacho acquires greater weight and credibility against the mere alibi of petitioner, especially because her testimony jibed with the autopsy findings.
[8] The testimonies of prosecution witnesses, in the absence of any showing of improper motives on their part, must be accorded full faith and credit.

The alibi of petitioner Rivera, corroborated by his wife, brother and sister, that he was working in the field in Barangay Cacandiungan, Natividad, Pangasinan, on 18 January 1989 when the crime was committed, cannot prosper. The element of physical impossibility of his presence at the crime scene at the time of the perpetration of the crime does not obtain.^[9] As correctly found by the trial court, petitioner admitted that the distance between his farm in Barangay Cacandiungan and his own house, which was only 200 meters away from the scene of the crime, could be travelled by walking in less than an hour;^[10] in fact, it could have been traversed in less than ten (10) minutes! We have ruled time and again that where the distance did not render it impossible for the accused to be at the scene of the crime, the defense of alibi must preclude the possibility that petitioner could have been physically present at the place of the crime at or about the time of its commission. Further, the alibi and denial of petitioner cannot prevail over the positive testimony of prosecution witnesses and their clear identification of him as having been physically present at the scene of the crime and killing his victim.^[11]

The inconsistencies in the testimonies of the prosecution witnesses as alleged by petitioner refer to minor and trivial matters which only serve to strengthen, rather than weaken, the credibility of witnesses because they erase any suspicion of rehearsed testimonies.^[12] His allegation that the medico-legal finding that the straight trajectory of the bullet contradicted the testimony of Jenny Camacho that the assailant was positioned in a higher level than the victim cannot be given credence. In his cross-examination, Dr. Tabangin explained that it was possible that the entrance and exit wounds would be at the same level even if the assailant's position was higher than that of the victim because there could be diversion of the bullet upon hitting the skull which is hard.^[13]

Moreover, the behavior of Jenny Camacho in running towards her house instead of