

THIRD DIVISION

[G.R. No. 138046, December 08, 2000]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RAFAEL D. TORRES, JR., APPELLANT.

DECISION

PANGANIBAN, J.:

Due process demands that the procedure for the identification of criminal suspects be free from impermissible suggestion. In the present case, appellant failed to show that there was such an irregularity.

The Case

Rafael D. Torres Jr. appeals the February 22, 1999 Decision^[1] of the Regional Trial Court of Quezon City (Branch 104), finding him guilty of murder and sentencing him to *reclusion perpetua*.

In an Information^[2] dated January 2, 1989, Assistant City Prosecutor Virgilio M. Gilera charged appellant with murder allegedly committed as follows:

"That on or about the 16th day of December, 1987, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously, attack, assault and employ personal violence upon the person of LUISITO ANGELES Y LOPEZ, by then and there shooting him with a revolver of unknown caliber on the different parts of his body thereby inflicting upon said Luisito Angeles y Lopez mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs in such amount as may be awarded under the provisions of the Civil Code."

When arraigned on January 22, 1996,^[3] appellant, assisted by Atty. Teodoro M. Jumamil, pleaded not guilty.^[4] After trial in due course, the court *a quo* rendered its assailed Decision, the dispositive portion of which reads as follows:

"WHEREFORE, the Court hereby renders judgment finding the accused, RAFAEL D. TORRES, Jr., guilty beyond reasonable doubt of the crime of MURDER defined and penalized in Article 248 of the Revised Penal Code, for the killing of Luisito Angeles on December 16, 1987 with the attendant circumstances of treachery and evident premeditation, and

imposing on him the penalty *reclusion perpetua*, as well as ordering him to pay the heirs of Luisito Angeles the following: P50,000.00 as indemnity for death, P95,000.00 as actual damages, P150,000.00 by way of lost earnings and P20,000.00 as moral damages."^[5]

In view of the penalty involved, the appeal was filed directly with this Court.^[6]

The Facts **Version of the Prosecution**

In its Brief,^[7] the Office of the Solicitor General presents the prosecution's version of the facts as follows:

"At 5:30 AM of December 16, 1987, prosecution witness Lincoln Leyretana was on his way to work on board a passenger jeepney along Dapdap St. corner Aurora Boulevard, Quezon City (p. 4-5, TSN, July 8, 1996). Aside from prosecution witness Lincoln Leyretana, there were thirteen other passengers on board the passenger jeepney (Ibid).

"Suddenly, Luisito Angeles, a passenger of the Jeepney, was shot twice at close range by the person seat[ed] next to the prosecution witness Lincoln Leyretana (ibid). Thereafter, the assailant alighted from the passenger jeepney and shot again the victim twice (p. 7, ibid). Prosecution witness Lincoln Leyretana saw the assailant board another passenger jeepney [in front] of the Aurora Market, Quezon City (p. 8, ibid). Meanwhile, prosecution witness Lincoln Leyretana, together with several other male passengers and the driver, brought Luisito Angeles to the nearest hospital where Luisito Angeles was pronounced dead on arrival (ibid).

"From the hospital, prosecution witness Lincoln Leyretana and several other passengers of the jeepney proceeded to the police station where they gave their sworn statements to the police (ibid). The investigation of the shooting incident was handled by SPO3 Juan Dacillo. On February 6, 1988, prosecution witness Lincoln Leyretana accompanied the group of SPO3 Juan Dacillo to Marikina City where appellant was allegedly seen by another prosecution witness, Carmelita Mendoza (ibid). He saw appellant riding a passenger bus and pinpointed him to the police authorities (ibid). The police officers followed the passenger bus and boarded the same. They apprehended appellant who introduced himself as a police officer.

"[O]n the afternoon of February 8, 19^[8]8, appellant escaped.

"On January 5, 1989, an Information charging appellant [with] murder was filed.

"On December 13, 1995, appellant was arrested in Nueva Ecija."

Version of the Defense

In his Brief,^[8] appellant interposes denial and alibi and relates his version of the facts in this wise:

"Appellant categorically and emphatically denied the charge and invoked the defense of alibi, claiming that he was at his place of work in Pasig on the date and time of the incident complained of, x x x work attendance [on which] was confirmed by the defense witness, SPO1 Arsenio Eugenio, and that he [did] not know the person of Luisito Angeles. Appellant likewise proved that Luis Angeles (father of the deceased) and Carmelita Angeles Mendoza (aunt of the deceased) were once in the place of appellant's friend, Priscilla De Guzman; that when appellant pacified them while they were arguing about their business, Luis Angeles got mad at him, telling him not to intervene; that at the police station on 6 February 1998, appellant heard Mr. Leyretana saying to SPO3 Dacillo 'malayo naman sa hitsura doon sa sketch' but the latter replied, 'ituro mo na lang;' that appellant left the police station after being pinpointed by Mr. Leyretana because nobody minded him; that appellant was arrested on his birthday, 13 December 1995, at Nueva Ecija; and that when the appellant was in jail, a man took pictures of him many times while Mr. Leyretana and Carmelita Mendoza visited him."

Trial Court's Ruling

Rejecting appellant's defense, the trial court gave full faith and credence to the testimony of the lone eyewitness. It ruled thus:

"This Court finds no substantial imperfection in the testimony of Mr. Leyretana who saw the accused and observed the manner in which he killed the victim who was in a defenseless state on board a passenger jeepney, as well as in the testimony of Carmelita Mendoza whose account of the earlier circumstances involving the accused from 4:00 a.m. of December 16, 1987 until the victim went out of their house proves the act manifestly indicating the determination to make possible the succeeding incident witnessed by Mr. Leyretana.

"Accused interposes alibi as a defense which cannot prevail over his positive identification by an eyewitness, Lincoln Leyretana, who has no motive to falsely testify. Moreover, it was not sufficiently established that it was physically impossible for accused to be in the scene of the crime at Aurora Boulevard, Quezon City, at 5:30 a.m., the time complained of. Then, too, it bears noting that while it was the direct testimony of the accused that he was at his place of work in Pasig on December 16, 1987,

he also testified on cross examination that he reported for work on December 16, 1987 at 7:00 a.m.

x x x

x x x

x

x x

"Accused seeks to exculpate himself by saying that Police Officer Juan Dacillo prodded Lincoln Leyretana to point to him as the perpetrator of the crime even if his face was different from the cartographic sketch. Accused testified thus:

'Q What happened when Mr. Leyretana arrived at the Quezon City Police Station?

A I heard what Mr. Leyretana was saying "Malayo naman sa hitsura doon sa sketch" and Dacillo told him "Ituro mo na lang."

Q Did Leyretana comply?

A Yes, sir.' (TSN, Rafael Torres, May 25, 1998, p. 18)

"No motive was shown by accused why Police Officer Juan Dacillo would prod Mr. Leyretana to point to him as the culprit. Moreover, Mr. Leyretana rebutted the testimony of the accused, as follows:

'Q Mr. witness, accused Rafael Torres testified last May 25, 1998 particularly on page 26 denying the accusation against him, meaning that he was not present when the incident occurred. What can you say to this?

A That is not true, sir.

Q What is the truth, Mr. witness?

A The truth, sir, is that I saw him in the place of the incident [and] that he was the one who shot the victim, sir.

Q And he also testified last May 25, 1998 on page 18, he stated that when you arrived at the Quezon City Police Station, you uttered the following word, which I quote: "Malayo naman sa hitsura doon sa sketch." What can you say to this?

A This is not also true.' (TSN, Lincoln Leyretana, September 8, 1998, pp. 3-4)

"Prior to the identification of the accused at the police line up, Mr. Leyretana pointed to the accused as the person who shot the victim while boarding the jeep on February 6, 1998. Police Officer Juan Dacillo then followed the jeep which accused had boarded. However accused, sensing that he was being followed, transferred to a passenger bus where he was apprehended by the group of Police officer Juan Dacillo. It is not unnatural for an eyewitness of a heinous crime to strive to see the face of the culprit and to observe the manner in which the crime was committed, and thereafter to cooperate with the police authorities for the sole purpose of bringing the culprit to justice.^[9]

Assignment of Errors

Appellant submits that the trial court erred in the following ways:

"I

"The trial court gravely erred:

- "a.) In convicting the appellant despite lack of positive identification;
- b.) In failing to give credence to appellant's defense of alibi;
- c.) In convicting the appellant despite lack of proof beyond reasonable court;
- d.) In not acquitting the appellant; and

"Assuming *arguendo* that the killing of the victim may be validly imputed [to] the appellant, the trial court gravely erred:

- a.) In appreciating the qualifying aggravating circumstances of treachery and evident premeditation;
- b.) In awarding the amount of P150,000.00 for actual damages despite lack of proof, and
- c.) In imposing the penalty of reclusion perpetua."^[10]

In the main, the Court will determine the sufficiency of the prosecution evidence regarding the identification of the author of the crime.

The Court's Ruling

The appeal is not meritorious.

Main Issue **Identification of the Culprit**

Appellant asserts that the prosecution's lone eyewitness "made not only a hazy