

## THIRD DIVISION

[ G.R. No. 94432, October 12, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.,  
DOMINGO LACHICA,<sup>[1]</sup>  
ACCUSED-APPELLANT.**

### D E C I S I O N

**PURISIMA, J.:**

This is an appeal from the Decision<sup>[2]</sup> dated July 11, 1990 of the Regional Trial Court of Zambales, Branch 71, in Criminal Case No. RTC-457-I, convicting appellant Domingo Lachica of the crime of murder, and sentencing him thus:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Murder, qualified by evident-premeditation (sic) and attended by the generic aggravating circumstance of Treachery and Use of a Motor Vehicle, the Court hereby sentences the accused Domingo Lachica to an imprisonment of RECLUSION PERPETUA and to jointly and severally, with accused Januario dela Cruz, who was convicted by this Court, indemnify the heirs of Rodolfo Pamoleras, Jr., @ 'Jerry' Pamoleras in the amount of P30,000.00, Philippine Currency, and to pay actual damages in the amount of P6,000.00, Philippine Currency, with costs.

*SO ORDERED.*"<sup>[3]</sup>

Filed on October 24, 1987, by Assistant Provincial Fiscal Benjamin A. Fadera, the Information indicting the appellant, alleges:

"That on or about the 3rd day of August, 1987 at around 10:00 o'clock in the evening, at Brgy. Beddeng, in the municipality of San Narciso, province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the herein named accused, conspiring, confederating and mutually helping with two (2) unidentified persons herein designated as 'John Doe' and 'Peter Doe' with intent to kill, and armed with a knife, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Rodolfo Pamoleras, Jr., thereby inflicting upon him the following injuries, to wit:

- ` - Lacerated wound proximal 3rd arm posterior aspect (L)
- Incised wound palmar surface (L)
- Stab wound 2 cm length neck lateral (R)
- Stab wound 2 cm length medial scapular (R)

- Stab wound 2 cm length vertebral area posterior
- Stab wound 2 cm length vertebral area posterior
- Lacerated wound 3 cm knee (L)'

*which injuries caused the instantaneous death of said Rodolfo Pamoleras, Jr.*

*CONTRARY TO LAW.* <sup>[4]</sup>

With the accused entering a negative plea<sup>[5]</sup> upon arraignment on December 13, 1988, trial ensued.

As summarized by the Solicitor General, the version sued upon by the People, runs as follows:

"At around 10:00 o'clock in the evening on August 3, 1987, Rey Pascasio, a tricycle driver, came from the town proper of San Antonio, Zambales and after discharging his passenger at the 'crossing' where there are rows of night clubs located at the intersection of the National Highway and the road leading to the U.S. Naval Facility at San Miguel, San Antonio, Zambales, he was called by Januario dela Cruz, a relative from across the road and told him that they would 'throw' something. Rey Pascasio acceded and followed Januario dela Cruz across the street near the gate of the Guerrero Compound where the three (3) companions of Januario dela Cruz were. Before boarding his tricycle, Januario dela Cruz introduced the deceased Rodolfo Pamoleras, Jr. and accused Domingo Lachica to Rey Pascasio. Pascasio's passengers boarded his tricycle with Januario dela Cruz riding tandem with Pascasio, while the other three (3) boarded the sidecar of the tricycle. Rodolfo Pamoleras, Jr. was seated near the sidecar entrance while Domingo Lachica was seated near the driver facing the entrance of the sidecar, and Ferdie Punzalan merely squatted on the floor, in front of Pamoleras (pp. 4-10, tsn, Jan. 31, 1989). Thereafter, Reynaldo Pascasio was directed by his passengers to go to Olongapo but because his tricycle was facing the opposite direction towards the north going to the town of San Narciso, Zambales, Pascasio was told to proceed. So he proceeded towards San Narciso, Zambales. On the way, before reaching the waiting shed at Mabangcal, San Narciso, Zambales, Pascasio slowed down because there was a white car, following them. And as his tricycle was running on the shoulder of the road, he heard somebody inside the tricycle cry out 'aray' and felt warm blood spurt from inside the sidecar of the tricycle landing at the back of his right palm. He then stopped the tricycle and Ferdie Punzalan and Domingo Lachica brought out Rodolfo Pamoleras, Jr. (Jerry Pamoleras) from the sidecar and all of them crossed the road. Punzalan and Lachica beat up Rodolfo ('Jerry') Pamoleras, Jr. Thereafter, they stabbed Rodolfo ('Jerry') Pamoleras, Jr., while Januario dela Cruz merely watched the whole incident, telling his two (2) companion not to shoot but only to stab the victim (p. 11 to 16, tsn, Jan. 31, 1989)

*After beating and stabbing Rodolfo Pamoleras, Jr. (Jerry Pamoleras), Domingo Lachica and Ferdie Punzalan again boarded the sidecar leaving Rodolfo Pamoleras, Jr. behind near the fence of the school. Januario dela*

*Cruz directed Rey Pascasio immediately to go to his (dela Cruz') house at West Dirita, east of the U.S. Naval Communications Station at San Miguel, San Antonio, Zambales (p. 17, tsn, ibid).*

*To avoid passing a checkpoint on the road going to the U.S. Naval Communications Station, because the tricycle was full of blood, Januario dela Cruz directed Rey Pascasio to pass through the road behind the Abille's Mini Mart leading to the Admiral Village, then to road leading to the U.S. Naval Communications Station (pp. 18-20, supra).*

*Upon their arrival at the house (of) Januario dela Cruz, the latter forthwith washed away the blood in the tricycle without anybody instructing him to do so, while Domingo Lachica and Ferdie Punzalan went behind the house of Januario dela Cruz, where the wound of Punzalan on the right arm, which was inflicted accidentally when both Lachica and Punzalan were stabbing Pamoleras simultaneously, was treated by a cousin of Januario dela Cruz (p. 23, tsn, Feb, 21, 1989). After washing the tricycle, Januario dela Cruz paid Rey Pascasio P7.00 as their fare. Thereafter, Rey Pascasio went home. Because he was threatened by Januario dela Cruz' relatives, he kept silent and he did not report the incident to the police (p.24, tsn, ibid).*

*The following morning at 6:00 o'clock Barangay Captain Ricardo Abinsay of Barangay Beddeng, San Narciso, Zambales reported to Sgt. Manuel Tejada, Station Commander of San Narciso, Zambales the presence of a dead person of infront of the Beddeng-Mabancal Elementary School, Pat. Arsenio Agawin and Pat. Salvador Nagma were dispatched to the place.*

*At the scene, they saw a dead person lying on his stomach on the ground at the shoulder of the road about a meter away from the fence of the Beddeng-Mabancal Elementary School. The body had a red sleeveless undershirt (sando) and white short pants. There were bloodstains on the red undershirt. At the same place, the two (2) policeman came upon Lt. Amado Farinas who gave them a wallet containing an Identification Card with the name "Jerry Reyes" on it. Thereafter, they brought the cadaver to the Municipal Hall.*

*Later, on the same date, a member of the police force of San Narciso, Zambales, fetched Dr. Jaime Braga, the Rural Health Officer of San Narciso, Zambales, who arrived and examined the cadaver there at the Municipal hall of San Narciso, Zambales. Dr. Braga found the following injuries:*

- ` - Lacerated wound proximal 3rd arm posterior aspect (L)*
- Incised wound palmar surface (L)*
- Stab wound 2 cm length neck lateral (R)*
- Stab wound 2 cm length medical scapular (R)*
- Stab wound 2 cm length vertebral area posterior*
- Stab wound 2 cm length vertebral area posterior*

- Lacerated wound 3 cm knee (L)'

*Of the wounds sustained by the person found dead identified through his ID card as Jerry Reyes, but later identified by his father as Rodolfo Pamoleras, Jr., the wound on the right neck was the fatal wound, as this involves the blood vessels in the neck.*

*In the afternoon of August 6, 1987, Rodolfo Pamoleras, Sr., who lives in Olongapo City learned that the policeman of San Narciso, Zambales had discovered and recovered the cadaver of his son, Rodolfo Pamoleras, Jr., on August 4, 1987, whom he last saw on August 3, 1987 at his house at 31-4th St., Olongapo City. Upon learning of the discovery of his son's cadaver, Rodolfo Pamoleras and his wife went to the police-station of San Narciso, Zambales to verify the report, but he was informed that the cadaver had already been buried at the San Narciso Municipal Cemetery. So, they told the Station Commander that they would return the next day to have the body exhumed.*

*For the examination of the cadaver of his son, Rodolfo Pamoleras, Sr. spent P6,000.00. He also paid the Funeral Parlor for the burial, the receipt of which was submitted during the trial of Januario dela Cruz.*

*About four days after the incident, while Reynaldo Pacasio was plying his route, one Chito Fernandez a policeman of San Antonio, Zambales picked him up and he was investigated and his statement was taken (Exhibit 'A') [p. 25, tsn, ibid].*

*In an Information dated October 24, 1987, Januario dele Cruz, together with 'John Doe' and 'Peter Doe' was charged with the crime of Murder. Januario dela Cruz was tried, and in the course of the trial, the identity of 'John Doe', as Domingo Lachica and 'Peter Doe', as Ferdie Punzalan, surfaced. Januario dela Cruz was subsequently found guilty.*

*Appellant was subsequently apprehended, tried, and was found guilty of the crime of Murder. Ferdie Punzalan has remained at large."*<sup>[6]</sup>

The defense placed reliance on alibi. Appellant theorized that from August 1986 to May 17, 1988, he was in Panitan, Capiz, his hometown, and never left the place until May 17, 1988, when he sailed for Luzon. To support his theory, appellant presented documents purportedly issued in Capiz, to wit: two residence certificates dated October 19, 1987 (Exhibit "1") and August 29, 1986 respectively, (Exhibit "2"); a duplicate copy of a passenger ticket on a ship bound for Manila, dated May 17, 1988 (Exhibit "3"); a clearance from the Philippine Army in connection with his application<sup>[7]</sup> as a trainee, dated September 24, 1986 (Exhibit "4"); Barangay Clearance from Poblacion Ilaya, Panitan, Capiz dated September 5, 1986 (Exhibit "5"); Police Clearance issued on September 22, 1986 (Exhibit "7"); Clearance from the Regional Trial Court of Roxas City dated September 23, 1986 (Exhibit "8"); a Voters Affidavit dated November 28, 1987 (Exhibit "9"); and Special Delivery Air Mail Envelopes postmarked: October 2, 1986 (Exhibit "11"), October 30, 1987 (Exhibit "12"), and November 25, 1987 (Exhibit "13").<sup>[8]</sup>

On July 11, 1990, the trial court came out with its judgment of conviction.