

SECOND DIVISION

[G.R. No. 131591, December 29, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERRY SILVA ALIAS "SITTOY" AND ALEXANDER GULANE Y OLEDAN ALIAS "ALEX OR ARMANDO," ACCUSED-APPELLANTS.

D E C I S I O N

BELLOSILLO, J.:

Accused-appellants GERRY SILVA alias "Sitoy" and ALEXANDER GULANE Y OLEDAN alias "Alex or Armando" were found guilty of murder by the Regional Trial Court for the killing of Leo Latoja and were sentenced to *reclusion perpetua* as well as to pay the heirs of the deceased P20,000.00 for actual expenses, P50,000.00 for civil indemnity, another P50,000.00 for moral damages, and to pay the costs.^[1]

On 21 December 1995, before leaving for work that morning, Leo Latoja bade farewell to his wife Shirley, his one (1)-year old child and his mother Estelita without realizing that it would be his final filial adieu.

On his way to work Leo found out that he had no money for his fare. But, not wanting to go back home as his child would always insist on going with him, he sent a co-worker to his house for money while he waited beside a parked tricycle to take him to the office. Upon learning of Leo's predicament, his wife Shirley went to see him who was some two hundred (200) meters away from their house. Shirley however failed to give Leo the money because she forgot her purse. Shortly after, Leo's mother, Estelita, followed Shirley because her child was again having his usual tantrums. When Leo saw his mother, he asked money from her and she readily obliged. Moments after she turned her back from Leo and took two (2) steps away, Estelita was startled by a gunshot prompting her to turn her head towards the direction of the gunfire. There she saw Gerry "Sitoy" Silva accompanied by two (2) armed men, later identified as "Alex" and "Boy," poking a gun at Leo. Leo did not immediately fall as he was being supported by Shirley. Instinctively, Estelita uttered, "'wag, 'wag, anak ko 'yan," while Leo, now bleeding from the face down, pleaded, "'wag di tayo talo." Shirley was petrified and could not do or say anything. In a vain attempt to ward off the attack, Estelita lunged at "Sitoy" but the latter hit her on the head and violently pushed her aside causing her to fall back. Thereafter, "Sitoy," "Alex" and "Boy" successively and repeatedly fired their guns at Leo who fell on the pavement now soaked in his own blood, after which, the three (3) assailants dashed towards a nearby alley.

Despite the milling of a growing crowd, no one dared go to the rescue of the fallen victim. Mother and son had to fend for themselves. Estelita brought Leo to the Tondo General Hospital but he died before they could get there.

Leo's cadaver was autopsied by Dra. Rosaline Cosidon of the PNP Crime Laboratory

Service who found the cause of death to be hemorrhage as a result of multiple gunshot wounds.^[2] The Medico-Legal Report listed (9) nine gunshot wounds and (3) three abrasions located at the different parts of the victim's body.

Estelita immediately reported the matter to SPO1 Serrano of the Navotas Police who accordingly prepared a blotter report showing the following entries -^[3]

x x x Victim is Leo Latoja y Achaso, 32, laborer, single and res. at #109 BS, SJ, Nav., MM. Suspects were 3 unidentified malefactors armed w/unknown F/A, & the witness was one ESTELITA LATOJA y ACHASO, 52, widow and res. at the same place (italics supplied).

x x x she saw her son fell down his back on the ground of the cemented road and bathed w/his own blood while his unknown attacker armed w/unknown handgun was standing pointing the gun to his son prompting her to hold tight the suspect; at this juncture, another 2 suspects armed with handguns shot her son repeatedly in his head x x x (italics supplied).

On 17 May 1996 an Information for murder was filed against Gerry Silva alias "Sitoy" and two (2) "John Does." On 9 December 1996 the Information was amended specifically naming Gerry "Sitoy" Silva, Alexander "Alex or Armando" Gulane y Oledan, and Gilbert "Boy" Araneta who was at large, for the murder of Leo Litoja.^[4]

Gerry Silva alias "Sitoy" denied culpability for the killing of Leo Latoja.^[5] According to him, he and the victim were both courting a girl which rivalry eventually resulted in a fist fight between them on 25 May 1995. He maintained that after the incident there was no occasion for him and Leo to meet because the latter would leave for work everyday. Although he had no personal knowledge of the fact that Estelita was aware of the violent encounter, he believed she learned about it from the people around. "Sitoy" explained that the dispute must be the reason why the Latojas bore a grudge against him. He also claimed that he was arrested not in connection with this case but for vagrancy last 12 May 1996 and that from 21 December up to the time of his arrest he never left home, and that although he and Estelita frequently met, no confrontation ever ensued between them.^[6]

Accused Alexander Gulane anchored his defense on mistaken identity. He claimed that he could not have participated in the killing because he just arrived from Catbalogan, Samar on 24 February 1996. Prior thereto, he had never set foot in Manila. He must have been mistaken for his first cousin Armando Gulane who bore a striking resemblance to him. While confined in the Quezon City Jail he learned that he was being implicated for the murder of Leo when several persons went to see him and looked for Armando Gulane but he insisted to them that he was Alexander and not Armando. He was certain that Armando was involved in the killing because he overheard one of his companions talking about Armando's participation in the crime.^[7] But Alexander failed to corroborate his allegations.

The trial court did not give credence to the sagging defense of the accused. Estelita Latoja, mother of the victim, clearly and positively identified Gerry Silva alias "Sitoy" and Alexander Gulane alias "Alex or Armando" as two (2) of the three (3) persons

who shot and killed her son Leo Latoja. She described in detail how her son was gunned down by the accused. As against this positive identification, the denial interposed by the accused, their claim of mistaken identity, and the imputation of an evil motive on the part of Estelita cannot prevail even if the lone witness in the shooting of Leo was his own mother. In qualifying the crime to murder, the trial court reasoned out -[8]

Before Leo was actually and suddenly shot, he was on a tricycle on his way to work having just received transportation money from his mother. This would make Leo unaware of the attack that will be made on him and, therefore, he was rendered unprepared for any defense he may possibly put up to repel the same. This would amount to treachery.

The hour of the morning when Leo was attacked (sic), which Latoja described to be just after day break, would preclude an accidental encounter between Leo and his assailants. It would have required planning on the part of the assailants on when and how they would kill Leo. This would account and would work for the presence of evident premeditation and conspiracy in this case.

At the vortex of the controversy is the credibility of the lone witness for the prosecution.

Accused-appellants characterize as too conjectural the testimony of Estelita Latoja implicating them as the authors of the crime. They argue that if indeed she knew the identities of the accused even prior to the commission of the crime, why then did she not reveal the same when she reported the incident to the police authorities?

Attention is drawn to the police blotter where the alleged felons were referred to merely as "*three (3) unidentified malefactors with unknown firearm*" or "*unknown attacker armed with unknown handgun*" (italics supplied). Corollarily, they contend that the unexplained delay in revealing the identities of the accused, which was made on 12 March 1996 or almost three (3) months after the commission of the crime, is undoubtedly repugnant to the common experience in the ordinary course of human behavior. Further, they argue that had Estelita really recognized them as the perpetrators of the crime she would have immediately and spontaneously revealed their identities when she reported the crime as would be expected of her. Hence, their belated identification is just an afterthought born of a prejudiced mind that cannot be the basis of conviction.

We do not agree. This Court has ruled that official records, as a police blotter, should not be given undue significance or probative value for they are usually incomplete and inaccurate, sometimes from either partial suggestions or for want of suggestions or inquiries. Entries in a police blotter are merely *prima facie* evidence of the facts stated therein but they are not conclusive.[9] More importantly, Estelita explained that although they were neighbors, she knew accused-appellants only by their aliases. At the time the blotter was being prepared, the police said that they would just put the aliases "here" (referring to the police blotter).[10] This statement suggests that she was able to identify accused-appellants by their aliases but this fact was, for reasons difficult to divine, omitted by the police in their written report. Moreover, at the time she went to the authorities for relief Estelita was the picture of