

## SECOND DIVISION

[ G.R. No. 103964, August 01, 1996 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NARCISO NAZARENO, RAMIL REGALA, ORLANDO HULAR AND  
MANUEL LAUREAGA, ACCUSED, NARCISO NAZARENO AND RAMIL  
REGALA, ACCUSED-APPELLANTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision,<sup>[1]</sup> dated May 28, 1991 of the Regional Trial Court of Makati (Branch 136), finding accused-appellants Narciso Nazareno and Ramil Regala guilty of murder for the killing of Romulo "Molet" Bunye II in Muntinlupa, Metro Manila on December 14, 1988 and sentencing them to suffer the penalty of *reclusion perpetua*. In addition, the two were ordered to pay jointly and severally to the heirs of the deceased the amount of P50,000.00. Two others, accused with them, Manuel Laureaga and Orlando Hular, were acquitted.

The evidence for the prosecution shows that on December 14, 1988, between 8:00 a.m. and 9:00 a.m., Romulo Bunye II took a tricycle (referred to in the record as "stainless" tricycle evidently because its body was made of stainless steel), which was driven by Fernando Hernandez. Unknown to Bunye was that two men were waiting outside his house and that the two hailed another tricycle in order to follow him.

Bunye alighted at the corner of T. Molina and Mendiola Streets in Alabang, Muntinlupa and crossed to the left side of the street. Shortly after, the tricycle, driven by Rogelio de Limos, arrived and stopped in front of Hernandez's "stainless" tricycle. One of the men jumped out of the tricycle and shot Bunye at the back of the head. When Bunye fell face down, the assailant fired another shot at Bunye's head. Then, the other man approached Bunye and shot him also in the head.

Rogelio de Limos and Fernando Hernandez, the tricycle drivers, executed sworn affidavits relating what they had witnessed.<sup>[2]</sup> The two described the assailants and stated that they could recognize the killers if they saw them again. There was another witness, a woman, who was also a passenger of the "stainless" tricycle on which Bunye rode but her identity had remained unknown.

The autopsy report on the victim showed that he died of gunshot wounds in the head.<sup>[3]</sup>

On December 28, 1988, Ramil Regala, Narciso Nazareno, Orlando Hular and Manuel Laureaga were arrested. Regala and Nazareno were put in a police line-up. They were identified and pointed to as the assailants by the tricycle drivers Hernandez and de Limos. Hernandez and de Limos executed additional sworn affidavits.

Ramil Regala executed affidavits, dated December 28, 1988<sup>[4]</sup> and January 2, 1989<sup>[5]</sup> admitting participation in the slaying of Bunye and pointing to Narciso Nazareno and a certain Rey Taling as his co-conspirators. He claimed that they had been hired by Orlando "Boy" Hular to kill the victim and told that they would be paid P30,000.00 by Manuel Laureaga. His affidavits were corroborated by Orlando Hular who, in an affidavit, executed on the same day, December 28, 1988,<sup>[6]</sup> stated that it was Laureaga who wanted Bunye killed, apparently in connection with Bunye's job as administrator of the public market in Alabang.

However, Regala and Hular subsequently recanted. Regala claimed that he had been tortured.<sup>[7]</sup> On the other hand, Hular claimed that, although he was not tortured, he admitted to the crime and signed the affidavit because he was afraid he would also be tortured.<sup>[8]</sup> Narciso Nazareno also claimed to have been tortured to admit to the crime but refused to sign any written statements.<sup>[9]</sup>

The trial court ruled the confessions of Regala and Hular to be inadmissible. However, it held Regala and Nazareno guilty on the basis of their positive identification by Hernandez and de Limos during the police line-up on December 28, 1988 and their testimony in court. The trial court stated:

As between the aforecited testimonies of Rogelio de Limos and Hernandez on one hand and the testimonies of Narciso Nazareno and Ramil Regala on the other, the Court would place its reliance on the testimonies of the prosecution witnesses, because firstly, there is no showing in the record that Rogelio de Limos and Fernando Hernandez are manufactured evidence. As a matter of fact, none of the defense witnesses had ever made such an imputation; and neither did the defense lawyers do so in their extensive memoranda. Secondly, it is a well-settled doctrine in this jurisdiction that as between positive testimonies and denials, the Court should place more weight on the former (*People v. Mostoles, Jr.* 124 SCRA 906). Thirdly, the testimonies of Narciso Nazareno and Ramil Regala are in the nature of alibis, and it is also settled that because they can easily be concocted the Courts should exercise extreme caution in accepting them as defense (*People vs. Bagsica*, 65 SCRA 400).

Orlando Hular and Manuel Laureaga were acquitted for lack of evidence against them.<sup>[10]</sup>

Hence this appeal by Nazareno and Regala.

In his brief, accused-appellant Narciso Nazareno assigns the following errors:

THE LOWER COURT ERRED IN FAILING TO CONSIDER THE VIOLATION OF THE ACCUSED-APPELLANT'S CONSTITUTIONAL RIGHT TO DUE PROCESS AS A FATAL FLAW IN HIS PROSECUTION AND SUBSEQUENT CONVICTION.

THE LOWER COURT ERRED IN FAILING TO ACQUIT THE ACCUSED-APPELLANT ON REASONABLE DOUBT.

Accused-appellant Ramil Regala, on the other hand, contends:

THE TRIAL COURT ERRED IN NOT CONSIDERING THE UNLAWFUL ARREST OF RAMIL REGALA AS A GROSS VIOLATION OF HIS CONSTITUTIONAL RIGHT TO DUE PROCESS.

THE TRIAL COURT ERRED IN NOT CONSIDERING THE TESTIMONY OF THE EXPERT WITNESS FROM THE NATIONAL BUREAU OF INVESTIGATION IN DETERMINING THE PROBABILITY OF GUILT OF APPELLANT.

THE TRIAL COURT ERRED IN RELYING ON THE INCREDIBLE TESTIMONIES OF FERNANDO HERNANDEZ AND ROGELIO DE LIMOS IN CONVICTING HEREIN APPELLANT.

We have reviewed the record and the evidence, and we find accused-appellants' contentions to be without merit.

*First.* Accused-appellants claim that their arrests without warrant were illegal and justify the nullification of the proceedings of the trial court. The contention is untenable. The warrantless arrest of accused-appellant Narciso Nazareno was upheld by this Court in 1990 in a petition for habeas corpus. It appears that, on January 9, 1989, Nazareno filed a motion for bail.<sup>[11]</sup> As the trial court denied his motion, a petition for habeas corpus was filed on his behalf with this Court. It was alleged that Nazareno's arrest was illegal because it was made without warrant fourteen days after the killing of Romulo Bunye II. This Court dismissed the petition in its decision of July 9, 1990.<sup>[12]</sup> He filed a motion for reconsideration which the Court also denied on the ground that the warrantless arrest was in accordance with Rule 113, 5(b) of the Revised Rules of Criminal Procedure.<sup>[13]</sup> The question which Nazareno raises has thus been settled long ago in a final decision of this Court.

Furthermore, Nazareno and Regala waived objections based on the alleged irregularity of their arrest, considering that they pleaded not guilty to the charges against them and participated in the trial. Any defect in their arrest must be deemed cured when they voluntarily submitted to the jurisdiction of the court.<sup>[14]</sup> For the legality of an arrest affects only the jurisdiction of the court over the person of the accused.<sup>[15]</sup> Consequently, if objections based on this ground are waived, the fact that the arrest was illegal is not a sufficient cause for setting aside an otherwise valid judgment rendered after a trial, free from error.<sup>[16]</sup> The technicality cannot render the subsequent proceedings void and deprive the State of its right to convict the guilty when all the facts on record point to the culpability of accused.<sup>[17]</sup>

*Second.* Accused-appellants argue that the trial court erred in giving credence to the testimony of Hernandez and de Limos. Accused-appellant Nazareno claims that the decision of the trial court does not contain an analysis of the testimonies of Hernandez and de Limos and suggests that the killing of Bunye was executed by professionals and not by a simple fruit vendor. Nazareno claims that the witnesses were reluctant, evasive and fearful and that they never had the opportunity to fully observe the incident as there was traffic and they merely had a side view of the assailants. Nazareno claims that the evidence of torture and maltreatment and the other circumstances were indications of manipulation and manufacture of evidence to frame him.<sup>[18]</sup> Similarly, accused-appellant Regala claims that the testimonies of

Hernandez and de Limos were confused and confusing. He then suggests that the manner the killing was perpetuated shows that it was done by professional assassins.<sup>[19]</sup>

These arguments are without merit. Far from being confused, the testimonies of Hernandez and de Limos were straightforward and unwavering and justified the trial court in giving them full faith and credit. The accused-appellants were positively identified by Hernandez and de Limos under circumstances which were ideal for identification. The incident happened in daylight and only two meters away from them.<sup>[20]</sup> They did not only see the assailants but they also witnessed the whole incident.

The testimonies of Hernandez and de Limos during direct and cross examinations corroborate each other on the material facts. A summary of Hernandez's direct examination<sup>[21]</sup> reveals that on December 14, 1988, between 8:00 to 9:00 in the morning, a woman took a ride in his tricycle, followed by a man whom he identified as Molet Bunye, who asked to be taken to Purok 6, T. Molina St. Upon reaching his destination, Bunye alighted and walked across the street. Hernandez said that just then he noticed a man approach Bunye, point a gun and fire at him. He saw the face of the assailant. He then saw the assailant position himself near Bunye's head and fire another shot when Bunye fell. Hernandez said he got confused and afraid and, as his other passenger was screaming, he tried to turn his tricycle around to leave. As he was doing so, he noticed accused-appellant Ramil Regala on his right approach Bunye and fire a shot at the victim. When asked if he could identify the assailants, Hernandez answered "yes." When asked to point to the assailants, he identified accused-appellant Narciso Nazareno as the first one who shot Bunye and Ramil Regala as the second one.

In his cross-examination, defense counsel tried to show that Hernandez did not see what really happened. This is not so. His testimony on cross examination, follows slightly edited, follows:<sup>[22]</sup>

- Q** On Dec. 14, 1988, you were driving your tricycle. Is that correct?
- A** Yes, sir.
- Q** You know that Rogelio de Limos was also driving his tricycle on the morning of Dec. 28, 1988?
- A** Yes, sir.
- Q** While you were driving your tricycle on that faithful morning, who was ahead you or Mr. de Limos?
- A** I.
- Q** After you took the woman and the man who was shot, did you know that Mr. de Limos was following you?
- A** I don't know.
- Q** How do you know that you were ahead?
- A** I learn[ed] it later on when Mr. de Limos overtook my tricycle.
- Q** In what place, when [did] Mr. de Limos overtake your tricycle?
- A** Also at T. Molina Street, Purok 6.

**Q** When Mr. de Limos overtook your tricycle, where you on stop position or were you ,still running?

**A** Already stopped.

**Q** In other words you stopped your tricycle and that was the time when Mr. de Limos went ahead or overtook your tricycle?

**A** Yes, sir.

**Q** To what side of you, left side or right side, did Mr. de Limos pass?

**A** To my left.

**Q** He stopped his tricycle in front of yours?

**A** Yes, sir.

**Q** When Mr. de Limos stopped his tricycle in front of yours, how far was his tricycle from the front side of your tricycle?

**A** Almost touching the front side of my tricycle.

**Q** Can you tell us, how many minutes after you have stopped when Mr. de Limos overtook you?

**A** I don't remember.

**Q** Maybe five (5) minutes after you have stopped that Mr. de Limos arrived?

**A** I can not estimate.

**Q** Was it very short period or was it in reasonable period of time after you stopped when Mr. de Limos arrived?

**A** Only for a while.

**Q** When Mr. de Limos stopped his tricycle, what was the position of his tricycle in relation to yours? Was it directly in front of you or was it towards your left side?

**A** His tricycle stopped directly in front of me, but a little sway to the right.

**Q** Would you say that the distance of your tricycle when both of you stopped was about one (1) foot only?

**A** About two (2) to three (3) feet.

**Q** Is it not correct to say that the tricycle touched each other at that time?

**A** I was surprised when he suddenly overtook me.

**Q** So your previous statement is not correct that the tricycle almost touched each other, because they were between two (2) to three (3) feet?

**A** Because I don't remember the distance because the incident happened a long time ago.

**Q** When the two (2) tricycles [were] already on stopped position, was there enough space for a person to pass?

**A** Yes, sir.

**Q** Your two (2) passengers, the man and the woman who alighted your tricycle first?

**A** The man (Bunye).

**Q** After Molet Bunye alighted from your tricycle, he walked to the left, crossed the street crossing in front of your tricycle?