

TWENTIETH DIVISION

[CA-G.R. CR NO. 01992, June 25, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADRIAN D. LABRA, ACCUSED-APPELLANT.**

D E C I S I O N

AZCARRAGA-JACOB, J.:

Before Us on appeal is the *Judgment*^[1] dated 09 July 2012 of the Regional Trial Court, Branch 17, Cebu City, in Criminal Case No. CBU-85429, finding accused Adrian D. Labra (appellant) guilty of the crime of homicide, sentencing him to imprisonment of ten (10) years and one (1) day of *prision mayor* as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* as maximum, and ordering him to pay the heirs of his victim civil indemnity of P50,000.00.

The Information^[2] dated 10 February 2009 alleged that at about 9:00 o'clock in the evening of 19 October 2008, in Barangay Napo, Carcar City, appellant, with the use of a firearm, with intent to kill, feloniously shot one Abraham Alforque, thereby inflicting upon the latter a gunshot wound on the head, which fatally caused his death shortly thereafter.^[3]

The Antecedents

The prosecution's evidence came chiefly from the testimonies of Adonis Alforque, Dr. Nestor Sator, and Laureonilla Alforque.

Adonis Alforque, the brother of the victim Abraham Alforque, testified that at about 8:00 o'clock in the evening of 19 October 2008, he was at the waiting shed at Barangay Napo, Carcar City hanging out with a couple of friends when his brother arrived in the place in a motorcycle, along with a certain Jed dela Calzada and Juvy Wamar. After a while, he, together with Abraham, went home to take their supper. After dinner, Abraham went out of their house to buy cigarettes. He, too, left their house to go back to the waiting shed. Upon arriving at the place at around 9:00 p.m., he saw his brother and appellant talking to each other about 50 meters away. He also noticed the two walk towards a nearby closed store. Seconds later, he heard appellant demanding P17,000.00 from his brother. As appellant's voice grew louder, Abraham just stood still and kept his silence. He then saw Abraham and appellant move to the back of the store, with the latter continuously shouting angrily at the former. All of a sudden, he heard three (3) gun reports coming from the back of the closed store. Fearing that his life was also in danger, he immediately ran home for safety. At their house, he told his younger sister that their brother Abraham has been shot. Together, he and his sister returned to the area, and there they saw the bloodied and lifeless body of their brother on the ground.

Dr. Nestor Sator, the Medico-Legal Officer of the PNP Crime Laboratory who conducted the post mortem examination on the dead body of Abraham Alforque, testified to the existence of the death certificate^[4] and autopsy report.^[5] He also declared that the cadaver was already in the state of *rigor mortis* at the time he examined it at 1:00 o'clock in the morning of 20 October 2008. He thus concluded that the victim must have been dead twelve (12) hours earlier or at about 1:00 o'clock in the afternoon of 19 October 2008.

Laureonilla Alforque, the mother of the Abraham Alforque, testified merely as to her being the mother of the victim, the burial and funeral expenses she incurred, and as to the moral damages she suffered.

In defense, appellant denied killing the victim Abraham Alforque. He claimed that on the date and time of the alleged incident, he was in their residence in Barangay Napo, Carcar City tending to his younger siblings as his parents were attending to their canteen inside Triple A Cockpit located at Barangay Poblacion, Carcar City. He said that when his parents came home around 7:30 in the evening of 19 October 2008, they all had supper together with barangay tanod Edilberto Gengoni who, at that time, was in their house to receive instruction from his father Mario Labra, then the Barangay Chairman. He only learned that Abraham Alforque was killed when he woke up the next morning of 20 October 2008.

To corroborate his story, appellant presented his parents, Mario and Geronima Labra, who both declared that on 19 October 2008 they were in their canteen in Triple A Cockpit in Poblacion, Carcar City from 10:30 in the morning until 7:30 in the evening when they went home together and saw appellant inside their house, along with his siblings. They later partook dinner together with their children, including appellant, and barangay tanod Edilberto Gengoni.

Appellant also presented Edilberto Gengoni who, in his testimony, averred that on 19 October 2008 he was in the house of Barangay Captain Mario Labra from 6:30 p.m. until 9:00 p.m. While he was there, he saw appellant together with his other siblings. At around 7:30 p.m., Barangay Captain Labra, along with his wife Geronima, arrived from the cockpit house in Poblacion, Carcar City where they had a store. Minutes later, he joined the Labra family in their dinner. After receiving instructions from Barangay Captain Labra, he left the house at about 9:00 o'clock in the evening, and saw appellant still inside their house lying in the sala watching television.

Appellant likewise presented witness Juvy Wamar to disprove the account of prosecution witness Adonis Alforque. Juvy testified that at about 2:00 or 3:00 o'clock in the afternoon of 19 October 2008, he heard a gun report near his house at Barangay Napo, Carcar City. He claimed that he was not alarmed by the gunfire as he was busy washing the dishes in the kitchen. He later learned the following day that Abraham Alforque was killed when policemen came to his house to ask for some information about the killing.

The Ruling of the Trial Court

After pre-trial, followed by trial and presentation of the parties' respective evidence, the trial court, basing on circumstantial evidence, rendered a verdict holding appellant for the death of the victim Abraham Alforque, as follows:

WHEREFORE, premises considered, accused ADRIAN LABRA is hereby adjudged guilty beyond reasonable doubt of the crime of Homicide. Accordingly, he is sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of *prision mayor* as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

Accused ADRIAN D. LABRA is further ordered to indemnify the heirs of the victim in the amount of P50,000.00.

SO ORDERED.

The Issues

In this appeal, appellant alleges that the court *a quo* erred: (i) in giving credence to the testimony of prosecution witness Adonis Alforque despite its incredibility; (ii) in finding circumstantial evidence sufficient to convict him despite the failure of the prosecution to prove its elements beyond reasonable doubt; and (iii) in not declaring that the evidence of the prosecution is weaker than his defense of denial and alibi.

[6]

Appellant contends that Adonis Alforque is not a credible witness. He asserts that various inconsistencies and incredible allegations of witness Adonis Alforque regarding the killing of Abraham exist so that his conviction on the basis of circumstantial evidence is totally unwarranted. In particular, appellant mentions the following circumstances: (a) Adonis' reaction when he heard gun reports emanating from the closed store where his brother and appellants were, as he claimed, was unnatural as he immediately ran home, instead of going to the place to see and check his brother; (b) the declaration of Adonis that there were three gun reports is palpably contradicted by the autopsy report showing that the victim sustained only a single gunshot wound; (c) Adonis did not divulge to the policemen what he has seen and witnessed when the latter arrived at the crime scene; (d) Adonis was inconsistent in his direct examination, where he testified that there was no other person around him when he saw his brother and appellant talking at the closed store, and in his cross-examination, where he stated that he was with a certain Peter Cyro, Dandave Dayagan, and Exequias Labra at the time; (e) Adonis' claim that he heard appellant demanding a certain amount of money from his brother, assuming it is true, is highly improbable considering his distance from them of about 100 meters; and (f) Adonis' declaration that the incident happened around 9:00 o'clock in the evening is belied by the testimony of prosecution witness Dr. Sator that the victim was already dead twelve (12) hours earlier at the time he conducted the post mortem examination.

Appellant further argues that the elements of circumstantial evidence, which the trial court heavily relied upon in convicting him of the crime charged, are not proven by the prosecution through proof beyond reasonable doubt. He emphasized the following points: *first*, none of the prosecution witnesses actually saw him shoot the victim; *second*, witness Adonis Alforque indulged in mere presumption or speculation in detailing the killing incident; *third*, the testimony of Adonis Alforque, particularly where he stated that he saw him (appellant) and his brother walk towards the back of the closed store and that seconds later he heard three gun shots emanating from the place, is highly incredible considering the ambient facts as

above-discussed; and *fourth*, there was another suspect in the person of Juvy Wavar who could have authored the killing of the victim.

The Ruling of this Court

The appeal is unmeritorious.

Prosecution witness Adonis Alforque could not have been mistaken as to the identity of appellant because he has known the latter since childhood, coupled with the fact that appellant is a son of Barangay Captain Mario Labra in Barangay Napo, Carcar City, where they are both residents.

Without any vacillation, witness Adonis Alforque ably recognized appellant as the person whom his brother Abraham Alforque had talked to near the closed store at around 9:00 o'clock in the evening of 19 October 2008, and then later on angrily demanded the proceeds of their illegal drug trade, which the victim failed to give. This witness also positively saw appellant and his brother move towards the back of the store with the former continually shouting angrily at the latter, and after a while, heard gun reports coming from the back of the store where appellant and his brother were. As the witness vividly recalled:

- Q. While at the waiting shed, was there any unusual incident that transpired?
- A. At that time, we were sitting at the waiting shed nothing happened until I came back.
- Q. After you came back, was there any unusual incident that happened?
- A. Yes.
- Q. Tell the court what was that all about?
- A. When I came back, I saw my brother walking towards the closed store.
- Q. What was your brother doing at the store?
- A. He was talking to Adrian Labra.
- Q. What was the distance when you saw your brother and the accused in this case talking?
- A. 50 meters.
- Q. Did you hear them talking?
- A. At first, they were talking softly. Then it became louder.
x x x x
- Q. Did you hear what was [*sic*] the subject of the conversation?
- A. Yes.
- Q. Tell the court what was the subject of the conversation.
- A. Adrian Labra demanded from my brother payment of the proceeds of illegal drugs.
- Q. How much was the accused asking?
- A. P17,000.00.
- Q. What was your brother's response when the accused demanded the sum of P17,000.00?
- A. He was just standing and did not say anything.
x x x x
- Q. What was the reaction of the accused when your brother failed to give the amount asked by the accused?
- A. He got angry.
- Q. He was angry?

- A. Yes.
- Q. Why do you say so?
- A. Because his voice became louder.
x x x x
- Q. Did you actually see the accused got [*sic*] angry?
- A. They were at the back of the store. But I was familiar with their voices.
- Q. Are you familiar with the voice of the accused?
- A. Yes.
- Q. Why did you claim that you were familiar with the voice of the accused?
- A. He used to come to our place.
- Q. You said that while the two were talking you have not seen them?
- A. No.
- Q. The defense counsel is correct that you have not seen the two talking?
- A. When I arrived at the place, I saw them talking. Later, they went to the back of the store.
- Q. Let us clarify about this matter. When the accused demanded P17,000.00, you have not seen the two persons, the accused and the victim talking?
- A. Yes.
- Q. After that conversation with your brother and the accused, what happened next?
- A. I heard burst of gunfire three (3) times.
- Q. How many times?
- A. Three (3) times.
- Q. Can you determine the kind of caliber used from the sound of the firearm?
- A. I am not familiar.
- Q. After you heard the burst of gunfire, what did you do, if any?
- A. I ran away because I was afraid.
- Q. What happened to your brother after this incident?
- A. I ran home and informed my younger sister that Bobby was shot. My younger sister ran towards the place of the incident. I followed her because I was afraid something bad might happen to her and we saw our brother bathed with his own blood and lying on the ground.^[7]

As to the postulation of appellant that it was unnatural for Adonis to run home instead of checking the back of the closed store where the sound of gun fire came from, this prosecution witness has explained that he succumbed to the shelter of their house out of fear that he too will be shot by appellant.

It is settled that people react differently under emotional stress.^[8] The workings of the human mind when placed under emotional stress are unpredictable. There is no standard form of behavior when one is confronted by a shocking incident-- one person's spontaneous or unthinking, or even instinctive response to a horrid and repulsive stimulus may be aggression, while another person's reaction may be cold indifference. Thus, in a given situation, some may shout, some may faint; some may be shocked into sensibility, while others may yet welcome the intrusion.^[9]