

## FIRST DIVISION

[ CA-G.R. CR-HC NO. 01952, October 27, 2006 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY PUNZALAN @ "JOJO", ACCUSED-APPELLANT.**

**ENRIQUEZ, JR., J.:**

This is an appeal from the Decision dated September 10, 1998 rendered by the Regional Trial Court (RTC), Branch 23, Roxas, Isabela, in Criminal Case No. Br. 23-668 for *Murder*, to the Supreme Court which was subsequently transferred to this Court in a Resolution dated January 25, 2006 pursuant to the decision in *People vs Mateo, G.R. No. 147678-87* promulgated on July 7, 2004. The dispositive portion of the assailed decision reads:

"AS A CONSEQUENCE OF ALL THE FOREGOING, the Court finds the accused guilty beyond reasonable doubt of the crime of Murder provided for and penalized under Article 248 of the Revised Penal Code, and hereby sentences him to suffer the penalty of Reclusion Perpetua; to pay the heirs of the victim the sum of Fifty Thousand (P50,000.00) Pesos for life, and One Hundred Fifty Thousand (P150,000.00) Pesos for actual damages, without, however, subsidiary imprisonment in case of insolvency; and to pay the cost.

SO ORDERED."

The facts of the case as culled from the records are:

Accused Joey Punzalan alias "Jojo" (hereafter appellant) stands charged for the crime of Murder, defined and penalized under *Article 248* of the *Revised Penal Code*, as amended by *Republic Act No. 7659*, in an Information which reads:

"That on or about the 14th day of May, 1996, in the municipality of Aurora, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously, assault, attack and hit with a Fire Extinguisher one Charito Samson, inflicting upon her, lacerated wounds on the frontal area and on the right facial area and frontal skull fracture, which directly caused her death.

CONTRARY TO LAW."

When arraigned, appellant pleaded "not guilty" to the offense charged. Thereafter, trial on the merits ensued.

The prosecution presented the following witnesses: Medel Cortez, Marivic Juan,

Manuel Malubay, Dra. Talamayan and Julio Samson.

For the defense, appellant, Nancy Punzalan, police officers Melchor Derada and Ulpiano Balmoja testified.

The evidence for the prosecution established the following:

Medel Cortez (hereafter Medel) was the driver/classifier of Spouses Julio and Charito Samson at the latter's rice-trading business.

On May 14, 1996, at around 2:00 to 3:00 o'clock dawn, while Medel was in his quarters (bunkhouse) with his co-worker, George Dumlao (hereafter George), he heard Charito Samson (hereafter victim) shouting. He slowly went near her and asked, "*Manang anya di diay?*" ("Manang, what is it"). However, he heard no reply. At a distance of about 1.5 meters, he saw appellant holding a fire extinguisher and pounded it three (3) times on the victim's head who was then lying down face up. Medel moved backward and hid. Thereafter, he saw appellant came out through the back door with bloodstains on his hands and chest. Appellant ran westward and while being chased by the victim's dog, he opened the gate.

Medel called on George and reported the incident to Abelardo Samson Sr. (hereafter Abelardo, Sr), the victim's father-in-law. They returned to the victim's house together with Abelardo Samson, Jr. (hereafter Abelardo, Jr), victim's brother-in-law. Abelardo Jr. held the victim on his lap and ordered Medel to drive the Elf truck to bring the victim to the hospital. The victim died before reaching the hospital.

Dra. Virginia Talamayan (hereafter Dra. Talamayan) conducted an autopsy on the cadaver of the victim and declared that the victim suffered lacerated wounds on the frontal area and on the right facial area, and frontal skull fracture.

Marivic Juan (hereafter Marivic) testified that it was her habit to wake up early in the morning and drink coffee. At about 3:00 o'clock in the morning of May 14, 1996, while she was at their terrace taking her early morning coffee, she heard the barking of dogs. Illuminated by streetlight and moonlight, she saw appellant standing at the corner of the latter's house somewhat confused and bewildered.

Meanwhile, at about 3:00 o'clock dawn of May 14, 1996, Manuel Malubay (hereafter Manuel), appellant's neighbor, was awakened by the barking of dogs. He heard appellant waking up Nancy Punzalan (hereafter Nancy) and afterwards drove off on a motorcycle.

Julio Samson (hereafter Julio), the victim's husband, was in Bulacan selling palay during the incident. He declared that he spent approximately P150,000.00 as funeral expenses.

For the defense, the evidence established the following:

Appellant was the driver and trustee of her employer and aunt Nancy Punzalan (hereafter Nancy). Appellant and Nancy testified on the following events:

- (1) on May 13, 1996 at about 6:00 o'clock in the morning, appellant went to Nancy's store in the public market of Aurora, Isabela;

(2) at 10:00 o'clock in the morning, appellant's compadre, Amang Caingat of San Pedro, Aurora, Isabela, requested him to buy things in Manila;

(3) at 2:00 o'clock in the afternoon, Nancy instructed appellant to rediscount a check in the amount of P40,000.00 in San Miguel, Isabela;

(4) at 6:00 o'clock in the evening after rediscounting the check, appellant proceeded to the house of Amang Caingat for a drinking spree and left at about 10:00 o'clock in the evening. He arrived at Nancy's house at 11:00 o'clock in the evening;

(5) at 4:00 o'clock dawn of May 14, 1996, Nancy woke appellant up and ordered him to warm up the engine of the motorcycle in the garage. Thereafter, appellant, Nancy and her children left for Santiago, Isabela. The jeep they were supposed to hire was not available due to mechanical defect. They left the children to Nancy's relatives in Santiago City and boarded a Dallin bus to Manila. Upon reaching Aritao, Nueva Vizcaya, the bus bogged down due to engine trouble. They went back to Santiago City and was able to hire another vehicle;

(6) they left for Manila at 2:00 o'clock in the afternoon and arrived thereat at 10:00 o'clock in the evening;

(7) in the morning of May 15, 1996, they bought the things they needed and returned to Aurora, Isabela at 10:00 o'clock in the evening. They arrived in Isabela at 8:00 o'clock in the morning of May 16, 1996;

(8) they proceeded to Nancy's store and unloaded the things they purchased. Appellant went to Amang Caingat's house and delivered the things he bought for him. He then went home to feed the chicken. Thereafter, three police officers arrived and brought him to the municipal hall on account of a murder case of which he was the suspect.

The two (2) policemen declared that in the dawn of May 14, 1996, they received a report concerning the murder of one Charito Mendoza Samson. They went to the crime scene and saw the cadaver of the victim. Ulpiano Balmoja recorded the event in the police blotter.

After due proceedings, the RTC rendered its decision in the terms earlier set forth. Hence, this appeal raising the following errors:

## I

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE CHARGED BY RELYING ON THE INCONSISTENT AND UNNATURAL TESTIMONY OF THE ALLEGED EYEWITNESSES.

## II