



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **29 June 2020** which reads as follows:*

*“G.R. No. 251161 (**Errol Berona y Quilo v. People of the Philippines**). –*

The Facts

In an Information¹ dated 04 February 2016, Errol Berona y Quilo (petitioner) was charged with Murder, qualified by treachery, night time, and use of an unlicensed firearm for killing Efren Taclan y Madamca (victim), in conspiracy with a “John Doe.” During arraignment, petitioner entered a plea of not guilty. Thereafter, trial ensued.

The prosecution presented Luzviminda Taclan (Luzviminda), the wife of the victim, as the sole witness to the crime.

On 08 December 2015, Luzviminda, the victim, and their 5-month-old granddaughter rode their tricycle to go to their son-in-law Charlie Gagua’s house in Brgy. Naguirangan, Batac City, Ilocos Norte.² They arrived at their destination at around 7:30 P.M., and the victim parked their tricycle in front of the fence, which was in the southeast portion of the house. He left the tricycle headlight on to illuminate the kitchen door which he intended to open.³ While Luzviminda and their granddaughter sat at the porch area on the eastern portion of the house, the victim proceeded to open the kitchen door. It was then that Luzviminda heard a gun report. When she stood up to look at the place where the sound originated from she saw petitioner holding a gun, coming out of the house with a companion.⁴ Petitioner and his companion ran towards the fence, and jumped over it. Meanwhile, she saw

¹ Not attached to the *rollo*.

² *Rollo*, p. 73; TSN, 14 November 2016, pp. 4-13.

³ *Id.*

⁴ *Id.*

the victim sprawled on the ground.

Thereafter, Luzviminda went back to their house to ask help from her brothers-in-law and returned to the place of the shooting.⁵ When the policemen arrived and interviewed Luzviminda, she named petitioner as the perpetrator.⁶ She accompanied the policemen to look for petitioner whom they later found near the Catholic Church in Batac. Luzviminda testified that she recognized petitioner through the illumination from the headlight of their tricycle. She also knew him because they come from the same barangay, and she even occasionally rode his tricycle.

Based on the post-mortem examination conducted on the victim, he died from a single gunshot wound to the face.

Petitioner raised the defenses of denial and alibi, claiming that he was plying his trade as a tricycle river during the shooting incident.

He narrated that on 08 December 2015, he left his house in Brgy. Naguirangan at around 5:30 P.M. to drive his tricycle for hire. After dropping off passengers, he stayed at the Florida Bus Terminal from 6:30 P.M. until around 8 P.M. to wait for more passengers.⁷ While waiting for almost two hours, he conversed with the vendors in the area and ate snacks with Jayson Lopez. After he ferried a couple of other passengers, he proceeded to the waiting area in front of a Catholic Church in Batac rather than returning to the bus terminal. At around 10:20 P.M., he saw two police officers alighting from a patrol car who invited him to go the police station.⁸

At the police station, the policemen asked him to remove his shirt and they inspected his body. He slept at the police station and was brought to a police camp in Laoag City the following day. There, he was subjected to a paraffin examination which yielded a negative result.⁹ Petitioner denied any knowledge of the shooting of the victim, further contending that his right arm was handicapped because it had been operated on as a result of a tricycle accident.¹⁰ He explained that his right hand was not strong enough to jump over the fence as claimed by Luzviminda and presented medical certificates for the purpose.

Regional Trial Court's Ruling

On 29 May 2017, the Regional Trial Court (RTC) rendered a Decision¹¹ finding petitioner guilty beyond reasonable doubt of Homicide, the dispositive portion of which states:

⁵ Id. at 74.

⁶ Id.

⁷ Id. at 75.

⁸ Id.; TSN, 10 February 2017, pp. 7-8.

⁹ Id.; TSN, 26 September 2016, pp. 2-3.

¹⁰ Id. at 76.

¹¹ Penned by Acting Presiding Judge Francisco R. D. Quilala; id. at 72-89.

WHEREFORE, the Court finds the accused ERROL BERONA y Quilo GUILTY beyond reasonable doubt of HOMICIDE penalized under Article 249 of the Revised Penal Code. Taking into account the aggravating circumstance of use of unlicensed firearm, the Court hereby imposes upon the said accused an indeterminate penalty ranging from ten (10) years of *prision mayor* as minimum to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum. The said accused is ordered to pay the following to the heirs of Efren Taclan: (1) ₱50,000.00 as civil indemnity for his death; (2) ₱60,000.00 as actual damages; (3) ₱50,000.00 as moral damages; and (4) ₱50,000.00 as exemplary damages. The said accused is further ordered to pay interest on the said amounts at the legal rate of six percent (6%) per annum, computed from the finality of this Judgment until full payment. Costs against the accused.

SO ORDERED.¹²

In downgrading the offense from murder to homicide, the RTC ruled that the prosecution failed to establish the aggravating circumstances of treachery and night time. There was no evidence on record to show that petitioner purposely adopted the means of attack to ensure his safety, or intentionally sought advantage of the night time to conceal his identity or ensure his escape.¹³ Rather, only the use of an unlicensed firearm was appreciated in view of the defense's admission that petitioner was not licensed to possess a firearm at the time of the shooting incident.

The court gave credence to the testimony of Luzviminda who had the opportunity to see and to identify the gunman right after the shooting and appreciated the following circumstances which it deemed bolstered her credibility: (i) the absence of any ill-motive to falsely accuse petitioner; (ii) her clear, positive, and categorical testimony that she saw the face of petitioner whom she identified as the gunman; and (iii) the immediacy of reporting the shooting; and (iv) her relationship with the victim, as "it would be unnatural for a relative who is interested in vindicating the crime to accuse somebody other than the real culprit."¹⁴ The RTC held that petitioner's defenses of denial and alibi could not prevail over the positive identification by Luzviminda; further noting that there was no proof that petitioner's previously fractured right arm hampered his movements nor was it physically impossible for him to be at the scene of the crime.

Court of Appeals Ruling

On 21 June 2019, the Court of Appeals (CA) rendered a Decision¹⁵ affirming *in toto* the Judgment of the lower court.

The CA held that: (i) all the elements of homicide were proven by the prosecution; (ii) there was sufficient illumination from the tricycle's

¹² Id. at 88-89.

¹³ Id. at 84-86.

¹⁴ Id. at 77.

¹⁵ Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Ma. Luisa Quijano-Padilla Rafael Antonio M. Santos, concurring; id. at 33-50.

headlight to allow Luzviminda to positively identify petitioner as the culprit; (iii) Luzviminda's testimony was clear, straightforward, and consistent on material points and replete with details to sufficiently support petitioner's culpability; and (iv) the positive identification by Luzviminda bears more weight than the negative paraffin test conducted after the incident. Finally, the CA stressed that when the issue is one of credibility, the appellate court will not disturb the findings of the trial court who is in a better position to decide the question having heard the witnesses themselves, observed their deportment and manner of testifying.¹⁶

The Issue

The issue presented for resolution is whether or not the CA erred in affirming petitioner's guilt despite the prosecution's failure to prove petitioner's identity as the perpetrator beyond reasonable doubt.

Petitioner raises the following arguments in support of his plea for acquittal, namely: (1) the poor illumination from the tricycle's headlight seriously hampered Luzviminda's ability to identify the shooter; (2) the shooter and his companion were fleeing the house and had their backs turned away from Luzviminda, thus, preventing proper identification; (3) the distortion of Luzviminda's perception due to the trauma of the shooting event; and (4) the paraffin test yielding a negative result.

The Court's Ruling

After a judicious study of the case, the Court resolves to deny the petition for failure to show that the CA committed any reversible error in affirming the RTC Decision finding petitioner guilty beyond reasonable doubt of the crime of Homicide, as defined and penalized under Article 249 of the Revised Penal Code.

At the onset, it bears pointing out that the arguments raised in the petition are the very same matters raised by petitioner before the appellate court. Both the CA and the RTC have exhaustively discussed the merits of the case at bench and concur on their findings and conclusions. In this connection, it must be stressed that factual findings of the trial court, when affirmed by the CA, are generally binding and conclusive upon this Court. The rule is that, the findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on such findings are accorded respect, if not, conclusive effect.¹⁷ This specially holds true if such findings were affirmed by the appellate court, as in this case. The Court finds no compelling reason to depart from this general rule.

Prosecution witness Luzviminda testified in no uncertain terms that it

¹⁶ Id. at 42-47.

¹⁷ *People v. Consorte*, 738 Phil. 723, 732 (2014).

was petitioner whom she saw holding a gun and fleeing from the scene immediately after the shooting incident.¹⁸ She explained that she was able to see petitioner's face since the area was illuminated by their tricycle's headlight. This allowed her to identify the shooter who was not only in close proximity to her;¹⁹ but whom she was personally familiar with, since they resided in the same barangay. Both the RTC²⁰ and CA²¹ found her testimony credible and convincing. The Court is not in a position to disturb anymore the uniform findings and conclusions of the courts below regarding Luzviminda's positive identification of petitioner as the shooter. Besides, it is not the duty of this Court in a Petition for Review on *Certiorari* filed under Rule 45 of the Rules of Court to analyze or weigh all over again the evidence already considered in the proceedings below.²² Such factual findings can be questioned only under exceptional circumstances, which are not present in this case.

It has been held that when the prosecution eyewitness was familiar with both the victim and the accused and where the *locus criminis* afforded good visibility, and where no improper motive can be attributed to the witness against the accused, as in this case, his version of the story deserves much weight.²³ Wicklamps, flashlight, even moonlight and starlight may, in proper situations, be sufficient illumination, making the attack on the credibility of witnesses solely on this ground unmeritorious. In *Tapdasan, Jr. v. People*,²⁴ the Court sustained identification of an accused made through the light emanating from headlights of a passing vehicle, what more from a stationary tricycle headlight,²⁵ as in this case.

Petitioner engages in speculation when he avers that witnessing a shooting event may have distorted Luzviminda's perception and that her actions are contrary to human experience, that is, to prioritize the safety of her granddaughter.²⁶ It must be stressed that there is no standard form of behavior when one is confronted by a shocking incident.²⁷ Be that as it may, the Court finds nothing extraordinary with Luzviminda's conduct. While she approached the source of the gun report, she kept silent when she saw the petitioner holding a gun to ensure their safety. She was afraid that petitioner and his companion could harm them and it was only after they left that they went back home to seek help and contact the authorities.²⁸ Moreover, it bears pointing out that the Court has recognized that due to the unusual acts of violence committed before their eyes, eyewitnesses can remember with a high degree of reliability the identity of criminals at any

¹⁸ *Rollo*, pp. 42-44, quoting TSN, 14 November 2016, pp. 4-7.

¹⁹ *Id.* at 82.

²⁰ *Id.* at 77.

²¹ *Id.* at 42-45.

²² *Adlawan v. People*, G.R. No. 197645, 18 April 2018.

²³ *People v. Jalbonian*, 713 Phil. 93, 104-105 (2013).

²⁴ 440 Phil. 864 (2002).

²⁵ *Rollo*, pp. 42-44, quoting TSN, 14 November 2016, pp. 4-7.

²⁶ *Id.* at 24-25.

²⁷ *People v. Acabo*, G.R. No. 229823, 27 February 2019.

²⁸ *Rollo*, pp. 73-74.

given time.²⁹ Thus, rather than detract from the accuracy of Luzviminda's identification of the petitioner as the shooter, this shocking incident may have further ingrained in her memory the identity of the perpetrator. While this pronouncement should be applied with great caution, there is no compelling circumstance in this case that would warrant its non-application.

Confronted with the positive testimony of Luzviminda as to his culpability, petitioner merely interposed the defense of denial and alibi which jurisprudence has long considered as weak and unreliable.³⁰ Denial must be buttressed with strong evidence of non-culpability to merit credibility.³¹ Meanwhile, for alibi to prosper, petitioner must prove not only that he was at some other place when the crime was committed but also that it was physically impossible for him to be at the *locus delicti* at the time of its commission.³² In the case at bench, the defense failed to present convincing evidence to reinforce petitioner's denial and alibi. As pointed out by the RTC, the travel time between Brgy. Naguirangan (the scene of the crime) and the places where petitioner proceeded from the time he left his house, to the time he was taken by the police in the vicinity of the church is less than an hour.³³ The Court has held that no physical impossibility exists where the distance between the scene of the crime and the place where an accused allegedly was at that time is only five kilometers, which could easily be negotiated by jeep or could otherwise be traversed on foot in more or less two hours.³⁴ Furthermore, save for his self-serving allegations, petitioner did not present any evidence to substantiate his claim that he was in the bus terminal where he claimed to have talked to several vendors or how he was plying his trade at the time of the shooting. Neither was there any proof that petitioner's old fracture on his right arm hampered his movements. The fact that petitioner was working as a tricycle driver further undermined this defense, considering that this line of work is physically demanding and requires the use of both arms.³⁵

Likewise untenable is petitioner's argument that the negative findings of the paraffin examination bolsters the probability that he did not commit the crime charged against him. Time and again, the Court has held that paraffin tests, in general, are inconclusive. As explained in *Peralta v. People*:³⁶

x x x Scientific experts concur in the view that the paraffin test was extremely unreliable for use. It can only establish the presence or absence of nitrates or nitrites on the hand; however, the test alone cannot determine whether the source of the nitrates or nitrites was the discharge of a firearm. The presence of nitrates should be taken only as an indication of a possibility or even of a probability but not of infallibility that a person has

²⁹ *People v. Pepino*, 777 Phil. 29, 55 (2016).

³⁰ See *Cosme v. People*, 793 Phil. 522 (2016); *People v. Acabo*, supra note 27.

³¹ *People v. Pulgo*, 813 Phil. 205, 220 (2017).

³² *Id.*

³³ *Rollo*, p. 79.

³⁴ *People v. Cabactulan*, 290 Phil. 600, 609 (1997).

³⁵ *Rollo*, pp. 80-81.

³⁶ 817 Phil. 554 (2017).

fired a gun, since nitrates are also admittedly found in substances other than gunpowder.³⁷

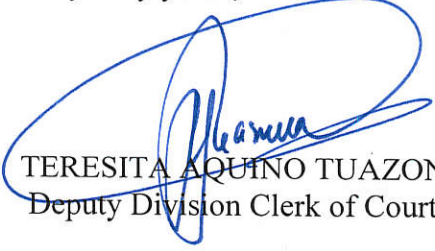
Needless to state, the positive identification of Luzviminda bears more weight than the negative paraffin test result conducted the day after the incident. Similarly, the negative result of the examination alone cannot exculpate petitioner.

Finally, the Court finds that the penalty and damages imposed are in accordance with law and prevailing jurisprudence.³⁸ In view of the RTC and appellate court's exhaustive discussion on the matter, the Court shall no longer belabor the same.

WHEREFORE, the Petition is **DENIED**. The Decision dated 21 June 2019 and the Resolution dated 07 January 2020 of the Court Appeals in CA-G.R. CR No. 40076 finding petitioner Errol Berona y Quilo **GUILTY** beyond reasonable doubt of the crime of homicide is **AFFIRMED in toto**. Interest at the rate of 6% per *annum* is imposed on all the monetary awards from the date of finality of this Resolution until fully paid.

SO ORDERED." (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *MC 9/13*

³⁷ See *id.* at 563, citing *People v. Gaborne*, 791 Phil. 581, 596 (2016).

³⁸ *People v. Jugueta*, 783 Phil. 806 (2016).

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