



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated January 17, 2023 which reads as follows:

“G.R. No. 251869 (*People of the Philippines v. Alfredo Gongon y Alemarcan*).—On appeal before Us is the September 25, 2019 Decision¹ of the Court Appeals (CA) in CA-G.R. CR-HC No. 11565 which affirmed with modification the May 3, 2018 Judgment of the Regional Trial Court (RTC), Branch 12, Malolos City convicting accused-appellant Alfredo Gongon y Alemarcan aka Fred for Murder under Article 248 of the Revised Penal Code (RPC) in Criminal Case No. 1206-M-2002.²

Gongon, along with three other individuals, Florante Flores aka Nante, Narciso Samonte aka Boyet, and Alfred Dela Cruz aka Didong, were charged with Murder under Article 248 of the RPC in an Information which reads:

That on or about the 20th day of November, 2001, in the municipality of San Rafael, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a handgun and fanknives, [sic] conspiring, confederating together and mutually helping one another, with intent to kill one Ahlladin Trinidad y Payumo, did then and there willfully, unlawfully and feloniously, with evident premeditation and treachery, attack, assault, shoot and stab the said Ahlladin Trinidad y Payumo, hitting the latter on the different parts of his body which directly caused the death of the said Ahlladin Trinidad y Payumo.

Contrary to law.³

Of the four indictments in April 2002, only that against Samonte and Dela Cruz proceeded to trial as accused-appellant Gongon and Flores were then at large.⁴

¹ *Rollo*, pp. 3-16. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of this Court) and Ruben Reynaldo G. Roxas.

² *CA rollo*, pp. 52-62. Penned by Judge Virgilita B. Castillo.

³ *Rollo*, p. 4.

⁴ *Id.* at 5.

Both Samonte and Dela Cruz were found guilty beyond reasonable doubt of Murder by the RTC,⁵ which conviction was appealed to the CA, only by Dela Cruz. Upon affirmation by the CA of Dela Cruz's conviction,⁶ he appealed further to this Court which, however, upheld the lower courts' rulings finding him liable for the death of Ahlladin Trinidad.⁷

On May 9, 2012, Gongon was arrested.⁸ On June 28, 2012, he was arraigned and pleaded "not guilty" to the charge.⁹ Subsequently, the RTC held trial.

Considering that the same prosecution witnesses, eyewitness Anthony Villacorta and his mother, Zenaida Soriano, were presented in the prior trial of the case against accused Samonte and Dela Cruz, We reproduce herein the factual narration thereon of this Court in *People v. Dela Cruz*.¹⁰

On November 20, 2001, at around 5 [p.m.], Anthony, then 13 years old, was playing in front of the house of Gongon, in Brgy. Pantubig, San Rafael, Bulacan. Anthony addresses Gongon, [accused-appellant], as "Tata Fred". [Gongon] was then having a drinking spree with Boyet, Nante, Rico, Ariel, Arnel, Ahlladin Trinidad (Ahlladin), and [Dela Cruz], also known as "Didong". At approximately 6 [p.m.] of that day, Anthony went home to have dinner and then met up with friends to sing Christmas carols from house to house. The group broke up at around 8:30 [p.m.], after which Anthony and two of his friends, Edwin and Ronnel, stayed at a store to wait for a certain JR.

At about 9 [p.m.], Anthony saw [Flores] and [Samonte], the latter holding an ice pick, pass by going to the direction of a forested area. Shortly thereafter, Ahlladin also passed by, walking unsteadily, followed by [Gongon] who had a gun tucked in his waist. [Gongon] then put an arm around Ahlladin's shoulder and the two then proceeded to the forested area. Moments

⁵ "WHEREFORE, finding herein accused Alfredo dela Cruz y Miranda @ "Didong" and Narciso Samonte y Dionisio @ "Boyet" each guilty as principal beyond reasonable doubt of the crime of murder as charged in the information, there being no other circumstances, aggravating or mitigating, found attendant in its commission, except the qualifying circumstance of treachery as alleged, due to the drunkenness of the victim which rendered him helpless to put up any defense or to retaliate, said accused are hereby sentenced each to suffer the penalty of reclusion perpetua, to indemnify the heirs of victim Ahlladin Trinidad y Payumo in the amount of P75,000.00, plus P93,000.00 as actual damages (Exh. "C"), and the further sum of P50,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings.

In the service of their sentence, each of the aforementioned accused being a detention prisoner, shall be credited with the full time during which he had undergone preventive imprisonment, pursuant to Art. 29 of the Revised Penal Code.

As to the other two accused still at-large, Alfredo Gongon alias Fred and Florante Flores alias Nante, let alias warrant of arrest issue against them and, pending their actual apprehension, let the record of this case be in the meantime committed to the Archives to be recalled therefrom as soon as circumstances demand so." Records, Volume I, pp. 185-186.

⁶ "WHEREFORE, the appealed DECISION dated 15 April 2005 of the Regional Trial Court, Third Judicial Region, Malolos City, Bulacan, Branch 12 is AFFIRMED with the following MODIFICATIONS: (1) the award of civil indemnity is reduced to P50,000.00; (2) the award of moral damages is deleted; and (3) appellant Alfredo dela Cruz is further ordered to pay exemplary damages in the amount of P25,000.00:" Records, Volume I, p. 221.

⁷ Id. See *People v. Dela Cruz*, 618 Phil. 465 (2009).

⁸ Id.

⁹ Id.

¹⁰ See *People v. Dela Cruz*, supra.

later, Anthony and his friends heard three gunshots. They stayed at the store for a while before proceeding home. They did not, before leaving, see anyone come out of the forested area.

The next morning, Ahlladin's lifeless body was discovered. Among those who joined the curious onlookers was Anthony who, upon seeing Ahlladin's corpse, remarked, "Iyan pala ang pinaputukan ni [Gongon] kagabi". [Gongon], who was among those in the crowd and who heard Anthony's utterances, pulled the latter aside, told him to keep quiet, and slapped him. The next day, [Gongon] threatened Anthony again while the latter was with his mother, Zenaida. He told Anthony not to tell anyone of his drinking spree with Ahlladin. Zenaida then instructed her son to go home.

Zenaida confirmed that there was indeed a drinking session at [Gongon's] house in the afternoon of November 20, 2001. Present at the time were [Gongon], [Samonte], Rico, [Flores], Ariel, Arnel, Ahlladin, and [Dela Cruz]. According to Zenaida, she was fetching water nearby when she overheard the group arguing about Ahlladin being a police informant and heard [Samonte declare], 'All the *salot* in their occupation should be liquidated'. [Gongon] commented that they should first wait for Ahlladin's friend, Wowie, so that they could dispose of "two birds with one shot". The exchange enraged Ahlladin who there and then remarked that he would have the police arrest them. He then left and went inside the house of [Gongon's] brother, Hernan. After 20 minutes, Zenaida noticed [Flores] calling Ahlladin's name and telling him that they were all only kidding. Ahlladin rejoined the drinking group shortly thereafter.

[Samonte] and [Flores] then headed to Zenaida's house that same night. It was around 8 [p.m.]. An inebriated-looking [Samonte] said out loud, "*Ang mga salot sa hanapbuhay namin ay kailangang patayin*", then left with [Flores]. Peeping through her window, Zenaida saw the two walking towards a forested area. Sometime later, Zenaida sat out on her yard with her niece, Luz. She saw Ahlladin walking in a wobbly manner. He was accompanied by [Gongon], who had a gun tucked in his waist. Both men likewise walked towards the forested area. At around 9 [p.m.], Zenaida heard three explosions which she surmised to be the sounds coming from firecrackers.

The following morning, Zenaida observed people running in the direction of the forest area. She learned along with her son Anthony that Ahlladin's body had been discovered there. Anthony then told Zenaida that it was [Gongon] who killed Ahlladin.

On December 1, 2001, Zenaida and Anthony each issued statements on Ahlladin's death to the local police. Anthony's statement named [Gongon], [Samonte], and [Flores] as the men he saw walking towards the forested area the night before the discovery of Ahlladin's body. On January 7, 2002, Anthony executed a *Karagdagang Salaysay*. He explained that after giving his first *Salaysay*, he often dreamt of Ahlladin during which he would shout "*Kuya Ahlladin, takbo, babanatan ka nila*". The recurring dreams prompted him to execute an additional affidavit, this time also implicating Dela Cruz.

In his *Karagdagang Salaysay*, Anthony recounted that at about 9:00 [p.m.] of November 20, 2001, while at a store with his two friends, he spotted [Dela Cruz] taking the short-cut route to the forested area which [Samonte] and [Flores] had earlier used. [Dela Cruz] was carrying what appeared to be a

wooden paddle. He turned to Anthony and his two friends and told them not to follow him. Intrigued, the boys ignored appellant's warning and hid under a hut in the forested area. They saw Ahlladin being killed by [Samonte], [Flores], [Gongon], and [Dela Cruz]. [Gongon] was then heard saying "*Siguraduhin na patay na,*" to which [Samonte] answered, "*Siguradong patay na.*"

The following day, November 21, 2001, Anthony met [Dela Cruz] who again warned the former not to reveal to anybody what he saw the night before. The terrified Anthony answered "yes" and proceeded home.

Per Medico-Legal Report No. M-244-01, marked and presented in evidence as Exhibit "F", gunshot wounds on his head and trunk, as well as a stab wound on his trunk, caused Ahlladin's death.¹¹

In refutation, Gongon's defense is brief. The day in question was a regular day of drinking with friends, where nothing significant occurred.¹²

At around 4:00 p.m., Gongon, and his co-accused, Flores, Samonte and Dela Cruz, had a drinking spree at the terrace of Gongon's house. An hour into their drinking session, Ahlladin came and asked for illegal drugs. Samonte told Ahlladin to wait until the group finished their drinking spree. At 6:00 p.m., Gongon left the group, went to his room, and slept until he awakened the next day.¹³ He kept to his home all day and did not know that Ahlladin had been found dead.¹⁴

Ruling of the Regional Trial Court

Thereafter, as it did with Samonte and Dela Cruz, the trial court convicted Gongon of Murder, finding treachery in the killing of the victim. It thus sentenced Gongon to *reclusion perpetua*:

WHEREFORE, premises considered, the Court finds accused Alfredo Gongon y Alemarcan @ Fred guilty beyond reasonable doubt for the crime of murder as charged in the Information, there being treachery in the killing of victim Ahlladin P. Trinidad. Said accused is hereby sentenced to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of Ahlladin P. Trinidad, PhP100,000 for his death, PhP93,000 as actual damages and PhP100,000 as moral damages and the cost of suit.

The time within which Accused Alfredo Gongon was preventively imprisoned shall be credited in the computation of the service of his sentence.

Since the other accused, Florante Flores @ Nante, remained at-large, the records of this case is again sent to the archives to be revived upon the arrest of Florante Flores @ Nante. Let an Alias WARRANT of ARREST be issued against him.

¹¹ Id. at 469-472.

¹² *Rollo*, pp. 6-7.

¹³ Id.

¹⁴ *CA rollo*, p. 60.

SO ORDERED.¹⁵

Ruling of the Court of Appeals

On appeal, the appellate court affirmed with modification Gongon's conviction, imposing 6% interest per annum on the award of damages, thus:

WHEREFORE, the instant appeal is hereby DENIED. The Judgment dated May 3, 2018 by the Regional Trial Court of Malolos City, Bulacan, Branch 12, in Criminal Case No. 1206-M-2002, finding Alfredo Gongon y Alemarcan @ Fred guilty beyond reasonable doubt, as principal, of the crime of Murder, is hereby AFFIRMED with MODIFICATION. Accordingly, all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until fully paid.

SO ORDERED.¹⁶

After Gongon's Notice of Appeal¹⁷ and the requirement upon accused-appellant and appellee to file supplemental briefs,¹⁸ the Public Attorney's Office (PAO), on behalf of Gongon, and the Office of the Solicitor General (OSG), on behalf of appellee, separately manifested that they will simply adopt their respective briefs filed before the CA.¹⁹

Issue

In his Appellant's Brief, Gongon lists the following assignment of errors:

I

THE [LOWER COURTS] GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF MURDER DESPITE THE FAILURE OF THE PROSECUTION TO PROVE ALL ITS ELEMENTS BEYOND REASONABLE DOUBT.

II

THE [LOWER COURTS] GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.²⁰

Our Ruling

The appeal is completely without merit. The Court affirms the lower courts' uniform conviction of Gongon for Murder.

¹⁵ Id. at p. 62.

¹⁶ *Rollo*, p. 15.

¹⁷ Id. at 17-18.

¹⁸ Id. at 23.

¹⁹ Id. at 26-30, and 32-35.

²⁰ *CA rollo*, p. 38.

We do not deviate from the singular ruling of the lower courts of the concurrence of all the elements of Murder,²¹ depicted in the eyewitness account of Anthony and corroborated on material points by Zenaida.

It bears repeating that factual findings of the trial court, especially when affirmed by the appellate court, on the credibility of witnesses, deserve utmost respect and will not be disturbed on appeal absent a clear showing that the trial court had overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which could reverse a judgment of conviction.²² None of the exceptions exists in this case.

Anthony's account, two decades ago, at the trial of Samonte's and Dela Cruz's case, and when he testified in this case, a decade and a half later, clearly points to Gongon as the shooter of Ahlladin. As correctly pointed out by the appellate court:

It should be underscored that Anthony's testimony taken on September 3, 2002, was affirmed and confirmed by him in his additional direct examination that was conducted during the hearing on September 10, 2015. During the said hearing, Anthony also positively identified [Gongon] as the same person whom he saw on November 20, 2001, as one of the persons who killed Trinidad and, later on, immediately fled the crime scene.²³

Gongon is adamant, however, that all the elements of Murder were not proven, pointing to a supposed hole in Anthony's testimony, uncorroborated by other testimony, that Gongon's supposed shooting of Ahlladin is what actually killed the latter. Gongon insists that Anthony could not have identified him properly since the alleged killing was committed in the forest during nighttime without any lighting.

We are simply not convinced.

In this case, the elements of Murder established by the prosecution and found by the lower courts, are:

(1) the fact of death of [Ahlladin] as shown in the photographs taken at the crime scene; (2) the positive identification of [Gongon] as the perpetrator of the crime; (3) the attendance of treachery as qualifying aggravating circumstances; and (4) the fact that all of the accused and the victim were not related to each other.²⁴

²¹ (a) a person was killed; (b) the accused killed him; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248; and (d) the killing is not parricide nor infanticide; see *People v. Dayaday*, 803 Phil. 363 (2017).

²² See *Calaogan v. People*, G.R. No. 222974, March 20, 2019; *People v. Aguilar*, 565 Phil. 233, 247 (2007).

²³ *Rollo*, p. 13.

²⁴ *Id.* at 9.

Anthony's testimonies, in 2002 and 2015, clearly recount what he witnessed in the forest after following accused Dela Cruz who had warned Anthony not to follow suit:

Q: After Didong hit Alladin at the nape while being held by Nante and Boyet, what happened next, if any?

A: Didong hit him at the back of his knees, sir. (Alak-alakan)

[x x x x]

Q; After Didong hit Alladin at the back of his knees, what happened next, if any?

A: Boyet stabbed Kuya Alladin, sir.

Court: With what?

A: Icepick, Your Honor.

[x x x x]

Q: What happened after Boyet stabbed Alladin, if any?

A: Nante stabbed Alladin also, sir.

Q: How did Nante [stab] Alladin?

A: He held Alladin on his right arm and stabbed him, sir.

[x x x x]

Q: After Nante stabbed Alladin, what happened next, if any?

A: Didong went in front of Kuya Alladin and stabbed him also.

Q: Where did Didong stab Alladin?

A: On the neck, sir.

Q: What did Didong use in stabbing Alladin?

A: A fan knife, sir.

Q: How many times did Didong stab Alladin?

A: Twice, sir.

Q: By the way, Mr. Witness, what was Tata Fred [herein accused-appellant] doing at that time?

A: He was just standing in front of Kuya Alladin standing, sir.

Q: After Didong stabbed Alladin, what happened next, if any?

A: Fred shot Kuya Alladin, sir.

Court: With what?

A: A short firearm, Your Honor.

Atty. Atencia:

Q: How many times did you see Fred Shot Alladin?

A: Three (3) times, sir.

Q: What was the distance between Fred and Alladin when he fired the shot at Alladin?

A: Two (2) feet, sir.

Q: After Fred shot Alladin, what happened next, if any?

A: He was released on both hands, sir.

Q: Sino ang bumitiw kay Alladin?

A: Boyet and Nante released the wrists of Alladin, sir.

Q: After Nante and Boyet released the arms or wrists of Alladin, what happened next, if any?

A: [Gongon] told them “Siguraduhin na patay na”²⁵

Against the entire account of Anthony, corroborated by Zenaida’s testimony, Gongon could only offer the defense of denial without offering reason as to the impetus for the accusation. In all, given the evidence established by the prosecution, *i.e.*, that all the accused conspired to murder Ahlladin, Gongon’s conviction must be upheld.

There is conspiracy “when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. It arises on the very instant the plotters agree, expressly or impliedly, to commit the felony and forthwith decide to pursue it.”²⁶

Here, the *corpus delicti*, the corpse of the murdered victim,²⁷ has been established. The cause of death, as stated to in the medical report, albeit not testified on by the doctor who prepared it, is not an element of the offense.

Moreover, as found by the lower courts, treachery is present in the killing of Ahlladin. We are likewise in full accord with the holding in the related case of *People v. Dela Cruz*:²⁸

The essence of treachery is the sudden and unexpected attack by the aggressors on unsuspecting victims, depriving the latter of any real chance to defend themselves, thereby ensuring its commission without risk to the aggressors, and without the slightest provocation on the victim's part. We find that circumstances do exist to justify the finding of treachery in this case. The prosecution alleged and sufficiently proved that Ahlladin was too drunk to fight off any aggression from his four assailants, at least two of them armed. His killers took advantage of his condition and attacked him without considerable difficulty, as plainly seen in the post mortem report on Ahlladin's body. What the trial court wrote indubitably indicated treachery:

From there, [Anthony] saw [Dela Cruz] hit with his piece of wood the nape of Ahlladin then held by the hand by [Flores]. When [Flores]

²⁵ *Id.* at 11-13.

²⁶ *People v. Alvarez*, 752 Phil. 451, 459 (2015).

²⁷ See *People v. Carino*, 438 Phil. 771, 777 (2002).

²⁸ *Supra* note 7.


released his hold [Dela Cruz] again hit Ahladdin on the back of the knees. After [Samonte], [Flores] and Dela Cruz stabbed Ahladdin, * Fred Gongon shot him saying "Siguraduhin niyo patay na yan" [x x x]²⁹

Anent the award of actual damages, We see no reason to disturb the amount of actual damages awarded by the trial court as upheld by the CA since accused-appellant does not question the basis of the said award. In any case, the RTC found that the itemized burial expenses in the amount of PHP93,000.00 were duly supported by receipts.³⁰ However, to conform to jurisprudence,³¹ this Court deems it proper to reduce the amounts of civil indemnity and moral damages to PHP75,000.00 each.

WHEREFORE, the appeal is **DISMISSED**. Accused-appellant ALFREDO GONGON y ALEMARCAN aka FRED is found **GUILTY** beyond reasonable doubt for the crime of Murder. He is thus sentenced to suffer the penalty of *reclusion perpetua*, and is ordered to pay the heirs of the victim Ahlladin Trinidad PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, PHP 75,000.00 as exemplary damages, and PHP 93,000.00 as actual damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 1/17/23

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

306-A
JAN 27 2023

The Solicitor General
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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 11565)

The Hon. Presiding Judge
Regional Trial Court, Branch 12
Malolos City, 3000 Bulacan
(Crim. Case No. 1206-M-2002)

²⁹ Id. at 477-478.

³⁰ CA rollo, p. 62.

³¹ See *People v. Jugueta*, 783 Phil. 806 (2016).

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