



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **November 13, 2023** which reads as follows:*

“G.R. No. 227022 (PEOPLE OF THE PHILIPPINES, Plaintiff-appellee, v. CRIS PERALTA y DE GUZMAN a.k.a. “Ile,” Accused-appellant). — The present motion for reconsideration¹ seeks the reversal of Our Decision² dated September 29, 2021, whereby we affirmed with modification the March 2, 2016 Decision³ of the Court of Appeals (CA) in CA-G.R. CR HC No. 07123 finding accused-appellant Cris Peralta y De Guzman (Cris) a.k.a. “Ile,” guilty of Robbery with Homicide.

Cris was formally accused of robbery with homicide before the Regional Trial Court of Pasig City, in connection with an incident which occurred on December 23, 2004, inside a jeepney traveling along Pasig Boulevard, Barangay Bagong Ilog, Pasig City,⁴ wherein armed men forcibly took the possessions of said jeepney’s passengers. In the course of the commotion, one of the passengers, who was identified as Police Officer (PO) 3 Florencio B. Antolin (PO3 Antolin), sustained two fatal gunshot wounds.⁵ Testifying for the prosecution were the assigned police investigator, the medico-legal physician who examined PO3 Antolin’s remains, and PO3 Antolin’s two children, Francisco and Fernando, who were traveling with him at that time. Francisco and Fernando identified Cris as the one who shot and killed PO3 Antolin.⁶ The defense presented Cris as its sole witness; he interposed a defense of alibi.⁷ After trial, the trial court found Cris guilty as charged:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused *Cris Peralta y De Guzman and Jayson Abila y Amada*⁸ **GUILTY** beyond reasonable doubt of the crime of Robbery with Homicide under Art. 294(1) of the Revised Penal Code and therefore they are hereby sentenced to and punished by *reclusion perpetua*; to jointly indemnify the complainants’ family who are victims, in the amount of *Seventy Two Thousand Pesos (Php72,000.00)* representing actual damages, medical, burial, funeral and miscellaneous expenses and *Four Thousand Four Hundred Thirty Pesos (Php4,430.00)* for the lost cell phones, cash money and jewelries of the Antolins; to pay the amount of *Seventy Five Thousand*

¹ *Rollo*, pp. 69–85.

² *Id.* at 50–68; penned by Associate Justice Samuel H. Gaerlan, and concurred in by Associate Justices Estela M. Perlas-Bernabe (now a retired Member of this Court), Ramon Paul L. Hernando, Henri Jean Paul B. Inting, and Japar B. Dimaampao of the Second Division, Supreme Court, Manila.

³ *Id.* at 2–13; penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba of the Fifteenth Division, Court of Appeals, Manila.

⁴ *Id.* at 50–52, Supreme Court Decision.

⁵ *Id.* at 51–52.

⁶ *Id.* at 53–54.

⁷ *Id.* at 54–55.

⁸ Also referred to in the records as “Jayson Albino,” “Jayson Albino y Amada,” and “Jayson Albino y Armada”; and hereinafter referred to as Jayson.

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Pesos (Php75,000.00) as civil indemnity for the death of PO3 Florencio Antolin; and, to pay the amount of **Fifty Thousand Pesos (Php50,000.00)** as moral damages; and to suffer all the accessory penalties provided for by law and to pay the costs.

The period of detention of the accused Cris Peralta shall be credited in his favor.

Considering that **Jayson Abila y Amada** is still at large, his case is temporarily placed in the **ARCHIVES** to be revived upon his arrest.

SO ORDERED.⁹

The CA affirmed the RTC ruling, thus:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The assailed Decision dated 30 September 2013 of the Regional Trial Court (RTC) of Pasig City, Branch 167 in Criminal Case No. 129785 is **AFFIRMED**.

SO ORDERED.¹⁰

The CA gave full credence to Francisco and Fernando's testimonies, both of whom positively declared that they saw Cris shoot and kill PO3 Antolin. Their identification of Cris as the shooter was found to be clear, certain, and concordant with established procedure.¹¹ The inconsistencies in the brothers' testimonies pertain only to minor details which do not affect the general credibility of their testimony.¹² There was likewise enough lighting from the jeepney's lamp and the surrounding streetlights to enable them to see Cris.¹³ Furthermore, the defense was unable to substantiate its defense of alibi.¹⁴

In the Decision sought to be reconsidered, this Court upheld the lower courts' assessment of the evidence. The brothers Antolin's testimony, as corroborated by the statements of the other passengers sufficiently established the first three elements of robbery with homicide.¹⁵ As regards the identification of Cris as the one who shot and killed PO3 Antolin, based on the relative seating positions of Francisco and Fernando with respect to Cris and PO3 Antolin, as well as the ambient lighting conditions, the prosecution witnesses had full "opportunity to observe and remember [Cris'] face because the crime occurred in the close confines of the jeepney."¹⁶ The inconsistencies pointed out by the defense all pertain to immaterial points which do not deter

⁹ *Rollo*, p. 55.

¹⁰ *Id.* at 12, CA Decision.

¹¹ *Id.* at 10-11.

¹² *Id.* at 9-10.

¹³ *Id.* at 10.

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 57-59, Supreme Court Decision.

¹⁶ *Id.* at 61.

from the basic finding that it was Cris who fired the shots which killed PO3 Antolin.¹⁷ Finally, Cris proffered contradictory alibis on the witness stand, making his defense even more incredible.¹⁸ The case was disposed of thus:

WHEREFORE, the present appeal is **DISMISSED**. The March 2, 2016 Decision of the Court of Appeals in CA-G.R. CR HC No. 07123 is hereby **AFFIRMED** with **MODIFICATION**. Appellant Cris Peralta y De Guzman is **ORDERED** to **PAY** the heirs of PO3 Florencio B. Antolin the following amounts: ₱72,000.00, representing actual damages, medical, burial, funeral, and miscellaneous expenses; ₱4,430.00, representing the value of the items stolen from the Antolins; ₱75,000.00, as civil indemnity for the death of PO3 Florencio B. Antolin; ₱75,000.00, as moral damages; ₱75,000.00, as exemplary damages; with interest at the legal rate of six percent (6%) *per annum* on all the foregoing amounts, reckoned from the finality of this Decision until fully paid.

SO ORDERED.¹⁹

The present motion for reconsideration raises the sole issue of whether the identification of Cris as PO3 Antolin's killer satisfies the totality of circumstances test.²⁰ The defense argues that Francisco and Fernando's identification of Cris is doubtful in view of the following circumstances: 1) none of the passengers knew Cris personally;²¹ 2) in view of the suddenness of the attack and the alleged fear which took over their minds, Francisco and Fernando could not have focused their attention on the faces of the perpetrators;²² 3) the relative seating positions of Francisco and Fernando with respect to Cris and PO3 Antolin, coupled with the ambient lighting and the hooded jackets worn by the perpetrators, made it impossible for the perpetrators' faces to be seen clearly;²³ 4) there is no cartographic sketch or description of the perpetrators' personal appearance or facial features on record;²⁴ and 5) based on the sworn statements of the case officers, the out-of-court identification of Cris was highly subjective.²⁵

Opportunity to view the assailant, degree of attention, and certainty of identification

The first three arguments have already been passed upon and rejected thrice. The motion for reconsideration adduces no new arguments against the common finding of the trial and appellate courts that the brothers Antolin had ample opportunity to see the shooter considering their relative seating positions

¹⁷ *Id.* at 61–66.

¹⁸ *Id.* at 66.

¹⁹ *Id.* at 66–67.

²⁰ *Id.* at 69–70. Motion for Reconsideration.

²¹ *Id.* at 70–71.

²² *Id.* at 71.

²³ *Id.*

²⁴ *Id.* at 71–74.

²⁵ *Id.* at 74–77.

within the jeepney and the sufficiency of illumination coming from the jeepney's solitary lamp and the surrounding streetlights.

The records show that immediately after the incident, Francisco and Fernando reported that they were able to see the shooter's face and that they will be able to recognize him if they see him again.²⁶ During the trial, Francisco maintained that despite the feeling of fear that overcame him at the time of the incident, he was still able to see and recall the shooter's face.²⁷ On the witness stand, Francisco was able to recall how the shooting incident unfolded. As two of the robbers were stabbing PO3 Antolin, the shooter uttered, "*Putang ina mo tama na yan dugo dugo na yang mukha mo*" to his companions, and then extended his arm in order to fire the gun at PO3 Antolin.²⁸

Although none of the passengers knew the robbers personally, the brothers Antolin never wavered in their identification of Cris as the shooter. The fact that the robbers wore hooded jackets does not foreclose the possibility of the brothers Antolin seeing the shooter, as the robbers have been in the jeepney with them since the beginning of the trip.²⁹ As Francisco testified, he was able to see the shooter's face as the latter extended his arm towards the front side of the jeep to fire at PO3 Antolin. Given Francisco's location at that time, he was in an optimal position to see the shooter's face. The same can be said about Fernando, who was seated at the center of the jeepney, just a meter across from Cris and Francisco. Upon direct questioning by the presiding judge, Fernando testified that he was able to recall the shooter's face even if the incident unfolded within a very short span of time.³⁰ Furthermore, although the defense tried to test their memories by asking them to recount their initial identification, the brothers Antolin never wavered in their identification of Cris as the shooter. While the brothers had a hard time recalling their initial identification of Cris, Francisco's responses to the presiding judge's line of questioning nevertheless corroborate their post-incident affidavits, to the effect that they first identified Jayson immediately after the incident and later identified Cris through a show-up two days later.³¹ At any rate, the People correctly argues that the defense never confronted the brothers Antolin with their allegedly inconsistent sworn statements during the trial, in accordance with Rule 132, Section 13 of the Rules of Court. *People v. Relucio*³² is relevant on this point:

It is a basic postulate in the law on evidence that every witness is presumed to be truthful and perjury is not to be readily inferred just because apparent inconsistencies are evinced in parts of his testimony. Every effort to reconcile the conflicting points should first be exerted before any adverse conclusion can

²⁶ Witness statements of Fernando and Francisco Antolin dated December 23, 2004, Records, pp. 10, 12.

²⁷ Transcript of Stenographic Notes (TSN), November 12, 2007, p. 29.

²⁸ *Id.* at 25–29.

²⁹ TSN, February 20, 2008, p. 9.

³⁰ *Id.* at 7.

³¹ TSN, November 12, 2007, pp. 32–36; Witness statements of Fernando and Francisco Antolin dated December 23, 2004, *supra* note 26.

³² 175 Phil. 398 (1978) [Per J. Barredo, Second Division].

be made therefrom. These considerations lie at the base of the familiar rule requiring the laying of a predicate, which in essence means simply that it is the duty of a party trying to impugn the testimony of a witness by means of prior or, for that matter, subsequent inconsistent statements, whether oral or in writing, to give the witness a chance to reconcile his conflicting declarations, such that it is only when no reasonable explanation is given by him that he should be deemed impeached.³³

The defense admits that Cris and the brothers Antolin were unknown to each other prior to the incident; the brothers thus have no motive to falsely accuse Cris of shooting their father. Verily, jurisprudence recognizes that relationship to the offended party can bolster the credibility of a witness:³⁴

Appellants admitted that they could not ascribe any ill-motive against the prosecution witnesses to falsely testify against them. Absent any evidence showing any reason or motive for prosecution witnesses to perjure, the logical conclusion is that no such improper motive exists, and their testimonies are thus worthy of full faith and credit. The fact that the witnesses were the daughter and the widow of the deceased could not impair their credibility. Blood or conjugal relationship between a witness and the victim does not per se impair the credibility of the witness. On the contrary, relationship itself could strengthen credibility in a particular case, for it is unnatural for an aggrieved relative to falsely accuse someone other than the actual culprit. The earnest desire to seek justice for a dead kin is not served should the witness abandon his conscience and prudence to blame one who is innocent of the crime.³⁵

Non-production of the cartographic sketch

As held in the assailed decision, the non-production of the cartographic sketch is not fatal to the prosecution's case. In *Vidar, et al. v. People*,³⁶ we sustained the show-up identification of the accused even if the post-incident description provided by the witness and the resultant cartographic sketch were not produced, because the incident unfolded in such a way that the witnesses stood only a meter away from the robbers, who did not make any attempt to conceal their faces. Similarly, Francisco and Fernando were situated in close proximity to the shooter at the time of the incident, and Francisco positively declared in open court that he was able to see the shooter's face as the latter aimed and fired at PO3 Antolin. Furthermore, the brothers were able to recognize the voice of the shooter, who talked to his companions immediately before shooting PO3 Antolin.

³³ *Id.* at 413.

³⁴ *People v. Tagana*, 468 Phil. 784, 803 (2004) [Per J. Austria-Martinez, Second Division].

³⁵ *People v. Rendoque*, 379 Phil. 671, 685 (2000) [Per J. Quisumbing, Second Division].

³⁶ 625 Phil. 57 (2010) [Per J. Del Castillo, Second Division].

Suggestiveness of the identification procedure

The defense argues that the police had no basis to invite Cris to the police station because the brothers Antolin did not offer a description of the shooter. However, it has already been established that Francisco provided a description of the shooter, which was not disclosed for the record. Furthermore, the brothers were able to identify Jayson from a rogues' gallery immediately after the incident.³⁷ As related in the Joint Affidavit of Senior Police Officer (SPO) 2 Noel Yago Venus and PO1 Ricardo Nava Santos (hereinafter referred to as the Police Affidavit), the follow-up team used Jayson's identification as basis for identifying other possible suspects. Based on tips from their informants, the follow-up team identified three of Jayson's associates with the aliases "Freddie Hapon," "Michael," and "Ile/Ele," who were seen together with Jayson within the vicinity of Pasig Palengke and Barangay Palatiw, where Cris was arrested:

That on or about 3:30 a.m. of December 23, 2004, a case of Robbery with Homicide was committed along Pasig B[ou]l[e]v[ar]d, B[aran]g[a]y Bagong Ilog, Pasig City by four malefactors who victimized six passengers of a Pasig City-bound jeepney and killed one of the passengers identified as PO3 FLORENCIO ANTOLIN, a police officer detailed at National Capital Region Police Office in Bicutan, Taguig, Metro Manila;

That said case was referred to our office to identify and locate the suspects, whereas during our initial investigation, Francisco and Fernando Antolin, PO3 Antolin's sons who witnessed the incident, identified one of the suspects as JAYSON ALBINO alias "Katol" thru photo gallery presented to them;

That we, together with other police operatives, SPO4 Carillo Jr, SPO3 Casiño, PO3 Molina, and PO1 Santos Jr, went to the last known hide-out of Jayson Albino in Rosario, Pasig City, where we learned from our informants that he had been with his peers known with the aliases Freddie Hapon, Michael, and Ile' for the past days and had been reportedly frequenting B[aran]g[a]y Palatiw and the vicinity of Pasig Public Market;

That on or about 11:30 p.m. of December 24, 2004, during a stake-out along F[.] Soriano St[.], B[aran]g[a]y Palatiw, Pasig City, we, together with the Chief of Follow-Up Section and six other police operatives, chanced upon one of Jayson Albino's peers identified as CRIS PERALTA y DE GUZMAN, alias ILE', 25 years old, married, jobless, and residing at No. 376 Dahlia St, Rodriguez Compound, B[aran]g[a]y Rosario, Pasig City, whom we asked to give important information regarding Jayson Albino's whereabouts and brought him to the Office of the Follow-Up Section of Pasig City Police Station;

³⁷ Witness statements of Fernando and Francisco Antolin dated December 25, 2004, Records, pp. 11, 13; TSN, November 12, 2007, pp. 33-35.

That we were consolidating the information regarding the target personalities at our office when FRANCISCO and FERNANDO ANTOLIN arrived and at first glance with CRIS PERALTA alias ILE', both Antolin siblings positively identified him outright as the same person who shot their father at the back during the said jeepney robbery/hold-up incident;

That after Francisco and Fernando Antolin clearly narrated CRIS PERALTA's participation with the said heist, we apprehended CRIS PERALTA, informed him of his constitutional rights and turned him over to the Criminal Investigation Branch for filing of corresponding charges[.]³⁸

In his testimony, Cris narrated that the police officers called him Ele, and that he responded to their questions when called by that name.³⁹ Given these circumstances, it is clear that the police officers had sufficient basis to invite Cris for questioning and identification.

At any rate, we sustain the People's assertion that the defense failed to present any evidence of arbitrariness, manipulation or improper suggestion on the part of the police officers.⁴⁰ In his post-confrontation affidavit, Francisco maintained that the police officers contacted their family to inform them that a suspect in the robbery had been arrested: "*Tumawag yung pulis sa tito ko at sinabi namay nahuli at ng kami ay pumunta dito, positibo kong tinuro yung suspek na siya mismo ang humoldap at bumaril sa tatay ko.*"⁴¹ Moreover, the suggestiveness of the identification procedure is only one of six factors considered in the totality-of-circumstances test. Thus, in *People v. Rivera*,⁴² We ruled that an out-of-court show-up identification may be cured by an independent in-court identification. In the case at bar, the extracurial identification of Cris happened on December 25, 2004, just two days after the incident. About three years later, on November 12, 2007 and February 11,

³⁸ Records, p. 25, Joint Affidavit.

³⁹ TSN, April 26, 2010, p. 5.

⁴⁰ See e.g., *People v. Torres*, G.R. No. 238341, July 14, 2021 [Per J. Caguioa, First Division], where the testimony of the accused established that he was detained at the police station for violation of municipal ordinances and then charged with *robo con homicidio* after he was arbitrarily shown-up to two witnesses in a drive-by motorcycle robbery incident.

⁴¹ Witness statements of Francisco Antolin dated December 25, 2004, Records, p. 13.

⁴² Even assuming *arguendo* that the appellant Alfonso Rivera's out-of-court identification was tainted with irregularity, his subsequent identification in court cured any flaw that may have attended it. Without hesitation, the two prosecution witnesses, Renato Losaria and Juanito Baylon identified the appellant as one of the assailants. In *People v. Timon*, the accused were identified through a show-up. The accused assailed the process of identification because no other suspect was presented in a police line-up. We ruled that a police line-up is not essential in identification and upheld the identification of the accused through a show-up. We also held that even assuming *arguendo* that the out-of-court identification was defective, the defect was cured by the subsequent positive identification in court for the "inadmissibility of a police line-up identification . . . should not necessarily foreclose the admissibility of an independent in-court identification." *People v. Rivera*, 458 Phil. 856, 876-877 (2003) [Per J. Puno, *En Banc*] (citations omitted), and reiterated in the following cases: *People v. Ascarraga*, 836 Phil. 735, 742-743 (2018) [Per J. Del Castillo, First Division]; *People v. Llamera*, 830 Phil. 607, 615-616 (2018) [Per J. Martires, Third Division]; *People v. Manigo*, 725 Phil. 324, 334 (2014) [Per J. Del Castillo, Second Division]; *People v. Macapanas*, 634 Phil. 125, 144 (2010) [Per J. Villarama, Jr., First Division]; *Vidar v. People*, *supra* note 35 at 70; *People v. Hernando*, 620 Phil. 759, 770 (2009) [Per J. Nachura, Third Division].

2008 respectively, Francisco and Fernando again unhesitatingly identified Cris in open court as the person who shot and killed PO3 Antolin.

In view of the foregoing, this Court is convinced that the identification of Cris as the author of the subject crime passes the totality-of-circumstances test.

FOR THESE REASONS, the Motion for Reconsideration is **DENIED WITH FINALITY**. The assailed September 29, 2021 Decision of this Court is **AFFIRMED**. No further pleadings or motions shall be entertained herein.

*Let entry of judgment be issued immediately.

SO ORDERED." (Hernando, J., Acting Chairperson, Inting, J., on official leave, Singh, J., designated additional Member vice Perlas-Bernabe, J. (ret.) pursuant to Sec. 8, Rule 2 of the IRSC, as amended.)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{MM} 2/c

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**last paragraph corrected*

(9)URES/ssh

- more -

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. 129785)

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