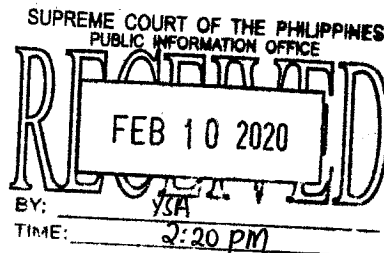




Republic of the Philippines
Supreme Court
Manila



SECOND DIVISION

FERNANDO N. FERNANDEZ,
Petitioner,

G.R. No. 241557

Present:

- versus -

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
DELOS SANTOS, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

11 DEC 2019

X-----

X

DECISION

REYES, A., JR., J.:

Subject to review under Rule 45 of the Rules of Court at the instance of petitioner Fernando N. Fernandez (Fernandez) are the Decision¹ dated February 15, 2017 and the Resolution² dated August 17, 2018 in CA-G.R. CR No. 38074, whereby the Court of Appeals (CA) affirmed his conviction for Frustrated Murder committed against private respondent Noel C. Garino (Garino) under the Decision³ rendered on April 27, 2015 by the Regional Trial Court (RTC) of Makati City, Branch 143, in Criminal Case No. 11-1667.

The Antecedent Facts

The facts as posited by Fernandez and Garino are summarized in the decision of the CA. In the prosecution's narration of events, on January 21, 2011 at around 1:00 a.m., Garino and an unknown companion were seated inside a jeepney which was parked in front of Fernandez's house, when

¹ Penned by Associate Justice Rodil V. Zalameda (now a Member of this Court), with Associate Justices Sesinando E. Villon and Pedro B. Corales concurring; *rollo*, pp. 31-46.

² Id. at 48-49.

³ Rendered by Presiding Judge Maximo M. De Leon; id. at 50-55.

Reyes

Garino saw someone go out of the gate.⁴ When they heard a gunshot, they immediately alighted from the jeepney, and it was then that Garino saw that the person who fired the shot was Fernandez, though he did not know the latter's name at the time. As the two ran away, Fernandez fired his gun a second time, hitting Garino on his right gluteal area, or "buttocks" in layman's terms. Garino was then brought to the *Ospital ng Makati* and resultantly underwent immediate surgery. He was confined for some two weeks and spent almost ₱200,000.00 for his stay in the hospital.⁵

Garino presented his doctor, Dr. Teresita Sanchez (Dr. Sanchez), as a witness, who testified that Garino was near death when he was taken to the hospital, and had to undergo a second operation because his large vessel, external iliac vein and intestines were injured.⁶

When questioned if he knew who his assailant was, Garino testified that he previously saw him at the salon where he and a certain Me-Ann Barcenas (Barcenas) worked.⁷ He found out his assailant's name only when Barcenas visited him at the hospital a few days after his surgery. Of note, however, neither Barcenas nor Garino's companion during the night of the shooting was presented as witness for the prosecution, as only Garino, his brother Albert, who had the incident blotted at the police station, and Dr. Sanchez were presented to testify.⁸

For its version of the facts, the defense presented Fernandez himself, as well as his son Jayvee, to testify as witnesses. Fernandez, a retired police officer, vehemently denied the prosecution's version of the events and claimed that he was sleeping with his wife at the time of the incident and was unaware of any unusual incident outside his house at the time.⁹ According to Fernandez, he was not investigated by the police or by any barangay official on the alleged shooting, and only learned of the charge for Frustrated Murder upon receipt of a subpoena from the Office of the City Prosecutor of Makati City.¹⁰

While Fernandez admitted owning the jeepney parked outside his house, he denied any knowledge of Garino and said that he first laid eyes on the latter only during the trial proper. He could likewise not think of any reason why Garino would file a case against him.¹¹

⁴ Id. at 33.

⁵ Id.

⁶ Id. at 33-34.

⁷ Id. at 37.

⁸ Id. at 33.

⁹ Id. at 35.

¹⁰ Id.

¹¹ Id.

Meyer

After trial, the RTC rendered a Decision¹² on April 27, 2015 convicting Fernandez of the crime charged, the dispositive portion of which reads:

WHEREFORE, this court finds [FERNANDEZ], guilty beyond reasonable doubt of the crime of FRUSTRATED MURDER defined and penalized under Art. 248 in relation to Art. 6 of the Revised Penal Code as amended and he is hereby sentenced to suffer the penalty of imprisonment of, after applying the Indeterminate Sentence Law, EIGHT (8) YEARS AND ONE (1) DAY of Prision Mayor as the minimum period to SIXTEEN (16) YEARS AND ONE (1) DAY of Reclusion Temporal as the maximum period.

Accused is also ordered to pay the complainant the amount of P50,000.00 as temperate damages and the amount of P50,000.00 as moral damages. The accused is also ordered to pay the Costs of this Suit.

SO ORDERED.¹³

Fernandez filed a Notice of Appeal on September 17, 2015 which was given due course by the CA in an Order dated October 20, 2015.¹⁴ The CA, however, denied Fernandez's appeal for lack of merit, and affirmed with modification Fernandez's conviction as meted out by the RTC, to wit:

WHEREFORE, premises considered, the Appeal is hereby **DENIED**. However, the Decision dated 27 April 2015 of the Regional Trial Court, Branch 143, Makati City is **AFFIRMED with MODIFICATION**, in that the dispositive portion of which shall read as follows:

x x x x

WHEREFORE, this court finds accused FERNANDO N. FERNANDEZ, guilty beyond reasonable doubt of the crime of FRUSTRATED MURDER defined and penalized under Art. 248 in relation to Art. 6 of the Revised Penal Code as amended and he is hereby sentenced to suffer the penalty of imprisonment of, after applying the Indeterminate Sentence Law, EIGHT (8) YEARS AND ONE (1) DAY of Prision Mayor as the minimum period to SIXTEEN (16) YEARS AND ONE (1) DAY of Reclusion Temporal as the maximum period.

Accused is also ordered to pay the complainant the amount of **P25,000.00** as temperate damages, the amount of **P40,000.00** as moral damages, **and the amount of P20,000.00 as exemplary damages**. The accused is also ordered to pay the costs of this suit.

¹² Id. at 50-55.

¹³ Id. at 54-55.

¹⁴ Id. at 35.

Meyer

The accused is likewise ORDERED to pay legal interest on all damages awarded in this case at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

X X X X

SO ORDERED.¹⁵ (Emphasis in the original)

Fernandez's Motion for Reconsideration was denied, prompting recourse to the Supreme Court. Hence, this Petition for Review on *Certiorari*.¹⁶

The Issue of the Case and the Arguments of the Parties

The issue in the case is whether or not Fernandez is indeed guilty of the crime of Frustrated Murder, for shooting Garino and failing to kill the latter despite inflicting a deep wound on the victim.

In his Petition, Fernandez argues that the evidence presented by the prosecution was insufficient to establish that he was the perpetrator of the crime charged in the Information.¹⁷ First, Fernandez questions the veracity of his identification as the one who shot Garino, considering: a) Garino did not know Fernandez prior to the incident; b) Garino only learned of Fernandez when he was merely pointed to by Barcenas, who was not the companion of Garino at the time of the incident; c) Barcenas was not presented to the witness stand to confirm the identity of Fernandez as the person who shot Garino; and d) Garino could not have seen his perpetrator as he was allegedly running when shot on his right gluteal area.¹⁸

The defense added that, as the incident took place during the wee hours of the morning, the condition of visibility at the time of the alleged shooting would not be favorable to ascertaining the perpetrator's identity, much less determining that Fernandez indeed was the culprit.¹⁹

Fernandez further contends that Garino merely assumed that the perpetrator was Fernandez because the jeepney, where Garino stayed in with his unknown companion, was parked in front of Fernandez's house.

¹⁵ CA Decision dated February 15, 2017; id. at 45.

¹⁶ Id. at 3-29.

¹⁷ Id. at 11.

¹⁸ Id.

¹⁹ Id. at 12.

Meyer

Barcenas only confirmed that Fernandez was the owner of the house, but not that he was the one who shot Garino.²⁰

Alleging the defense of alibi, Fernandez states that the lower courts erred in dismissing this as an inherently weak defense. Fernandez cited the case of *People v. Caverte*,²¹ where it was held that “[w]hile alibi is a weak defense and the rule is that it must be proved to the satisfaction of the court, the said rule has never been intended to change the burden of proof in criminal cases. Otherwise, an absurd situation will arise wherein the accused is put in a more difficult position where the prosecution evidence is vague and weak as in the present case.”²²

Finally, Fernandez argues that even hypothetically admitting that he was the person seen by Garino, the evidence offered by the latter was insufficient if not altogether absent to show the commission of Frustrated Murder. Fernandez states that the prosecution failed to prove that there was intent to kill on his part, especially since Garino did not even testify that he actually saw Fernandez point a gun towards him and fire the same.²³ Anent the injury itself, Fernandez points out that it was caused by a single gunshot wound in the gluteal area, which is clearly not a vital part of Garino’s body and thus cannot be considered as a fatal wound.²⁴ Fernandez alleges that the prosecution was unable to show intent, nor the presence of treachery in the commission of the offense – vital elements of the crime he is being accused of. Even conceding but definitely not admitting that Fernandez was the one who shot Garino, in the absence of clear proof of the existence of treachery, the crime is only physical injuries, or at the most, frustrated or attempted homicide, warranting a reduction of the penalty.²⁵

In its Comment²⁶ to the Petition, respondent People of the Philippines, through the Office of the Solicitor General (OSG), argues that the prosecution was able to establish all the elements of the crime charged. The facts accordingly show that Fernandez, with intent to kill, inflicted an injury upon Garino that was sufficient to kill the latter, such act of inflicting injury being attended and qualified to become Murder by treachery, however Garino did not die due to the timely medical assistance given to him.²⁷

The OSG counters that, while it is true that Garino did not know Fernandez’s name at the time of the attack, he was able to recognize him

²⁰ Id. at 15.
²¹ 385 Phil. 849 (2000).
²² *Rollo*, p. 17.
²³ Id. at 19.
²⁴ Id. at 19-20.
²⁵ Id. at 22.
²⁶ Id. at 66-95.
²⁷ Id. at 76.

Meyer

from the salon where he worked. The fact that he was only informed as to Fernandez's name through his co-worker does not negate his positive identification that Fernandez was the perpetrator of the crime.²⁸ According to the transcript of records, during the trial, Garino repeatedly testified in open court that he saw and identified Fernandez when he alighted from the jeepney after the first shot.²⁹ Said identification was not only clear from the direct testimony, but also from Garino's cross-examination, wherein he said on record that he knew who Fernandez was through his friend.³⁰

The OSG points out that the physical evidence shows proof of Fernandez's intent to kill, as Garino would have died from his wounds had he failed to timely undergo an operation at the hospital. According to the findings, Fernandez was armed with a gun when he came out of his house, and with this weapon, fired a shot. When the first shot missed, he then shot Garino, who was running from the scene and was only one and a half arm's

²⁸ Id. at 80-81.

²⁹ Id. at 77-78.

(Direct examination of private complainant)

Prosecutor Paolo Talban

Q: You said that you were inside the jeep and the jeep was parked in front of the house of the accused?

A: Yes, sir.

Q: What were you doing at that time?

A: We were walking inside the jeep and then, there was a dog barking.

Q: What transpired next after that?

A: After that, sir, someone went out of the gate and we hear gunshot. I and my companion tried to run away. I alighted from the jeep and I was able to see the person.

Q: To your recollection, did you recognize the identity of the person?

A: Fernando Fernandez, sir.

Q: You mentioned the name Fernando Fernandez. If the accused or that person is inside the courtroom, will you be able to identify him?

A: Yes, sir.

Court: Point to him.

Witness: He is there, sir.

Court: Witness pointed to a man who answered to the name of...(to the accused) what is your name?

Accused: Fernando Fernandez, sir. (Emphasis omitted)

³⁰ Id. at 78.

(Cross examination of private complainant)

Atty. Rufino V. Mijares, counsel for petitioner:

Q: From your testimony, you testified as if you knew the accused very well.

A: Yes, sir. I came to know him in the salon.

Q: And despite of that [sic], you were not able to identify the respondent when you were in the hospital?

A: I knew him through a friend.

Q: So, you really don't know the accused?

A: I know him, sir.

x x x x

Q: The police went to you at the hospital and you were interviewed and you were asked about the incident?

A: Yes, sir.

Q: And that interview was put in writing in the blotter of the police, is that correct?

A: Yes, sir.

Q: I am showing to you this police blotter, is this the one you are referring to?

A: Yes, sir. (Emphasis omitted)

Meyer

length away from Fernandez. The act of firing another shot after the initial miss was an indication that Fernandez really intended to kill Garino.³¹

Moreover, the OSG contends that this intent is manifest in how Fernandez deprived Garino of any chance to defend himself due to the suddenness of the attack and as seen in the entry point of the gunshot wound on Garino's right gluteal area.³²

Ruling of the Court

The Court acquits Fernandez on the ground of reasonable doubt. The lower courts committed grave abuse of discretion in hastily convicting Fernandez on the basis of questionable evidence.

It is a basic and immutable principle in criminal law that an accused individual cannot be convicted if there is reasonable doubt in his or her commission of a crime. Proof of guilt beyond reasonable doubt must be adduced by the prosecution otherwise the accused must be acquitted, even if, on face, he or she appears to be most suspicious or even if there is no other possible or identifiable perpetrator in the records despite there having been a crime committed.

As aptly stated in *People v. Claro*:³³

Requiring proof of guilt beyond reasonable doubt necessarily means that mere suspicion of the guilt of the accused, *no matter how strong*, should not sway judgment against him. It further means that the courts should duly consider every evidence favoring him, and that in the process the courts should persistently insist that accusation is not synonymous with guilt; hence, every circumstance favoring his innocence should be fully taken into account. That is what we must be [sic] do herein, for he is entitled to nothing less.

Without the proof of his guilt being beyond reasonable doubt, therefore, the presumption of innocence in favor of the accused herein was not overcome. His acquittal should follow, for, as we have emphatically reminded in *Patula v. People*:

[I]n all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the

³¹ Id. at 84-85.

³² Id. at 85.

³³ 808 Phil. 455 (2017).

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Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.³⁴ (Citations omitted)

The RTC and the CA are one in their findings that Fernandez is the actual perpetrator of the crime against Garino, based in major part on the latter's testimony, which was found as clear, straightforward, and believable. As a general rule, the Court is obliged to rely on the observations of the trial court, as the latter had the unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude. It has since become imperative that the evaluation of testimonial evidence by the trial court be accorded great respect by the Court; for it can be expected that said determination is based on reasonable discretion as to which testimony is acceptable and which witness is worthy of belief.³⁵

Although it is entrenched in this jurisdiction that findings of the trial court on the credibility of the witnesses are accorded great weight and respect because it had ample opportunity to observe the demeanor of the declarants at the witness stand, this rule admits exceptions. The saving instance is said to be when a fact or circumstance of weight and influence has been overlooked, or its significance misconstrued by the trial court sufficient to harbor serious misgivings on its conclusions.³⁶

Even a casual observer can see that almost the entire case for the prosecution rests exclusively on Garino, the victim, and his testimony. No other witness was presented to narrate the events of that fateful night, even though Garino had a companion. A more nuanced glance at the antecedent

³⁴ Id. at 468-469.

³⁵ *People v. Amarela*, G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54, 68-69.

³⁶ *People v. De Guzman*, 690 Phil. 701, 709 (2012).

Reyes

facts will unearth several glaring inconsistencies in Garino's testimony as well as the evidence on record. While these inconsistencies on their own may not be enough to completely decimate his testimony, taken together with the fact that the prosecution relied solely on the alleged victim's narration of events, these more than show the presence of reasonable doubt substantial enough to acquit the accused.

On the witness stand, Garino testified that he and his companion were sitting inside a jeepney outside Fernandez's house a little after midnight. Garino then saw someone come out of the gate, presumably Fernandez as he alleged he discovered later on. Garino and his companion then heard a gunshot, which prompted them to flee the jeepney, and it was only then that Garino saw that it was Fernandez with the gun. As the two ran away, Fernandez fired another shot which hit Garino in the latter's right gluteal area, which caused his hospitalization and near-death.

Notably, the testimony is anchored on Garino's positive identification of Fernandez as the culprit who shot him, even though he did not know his name at the time, and only zeroed in on Fernandez after the incident as a result of Barcenas' own identification. In this regard, the Court finds Garino's testimony to be highly suspect, and laden with several inconsistencies which militate against Fernandez's culpability as a suspect.

First, the condition of visibility at the time was not specified to by Garino. The incident happened after midnight, and there was no mention that the area was illuminated sufficiently in that Garino would be able to take a good look at his assailant. The need to take a good look at his assailant's features is indispensable and crucial, as Garino did not know who Fernandez was, and only identified the latter based on how Garino's description of Fernandez was apparently in sync with Barcenas' own identification. In this case, apart from Garino's own testimony, no other competent nor corroborative proof was adduced by the prosecution that would answer the question of visibility.

Despite this testimonial omission, Garino indirectly attempts to justify his positive identification of Fernandez during the incident by pointing to the happenstance that he saw Fernandez clearly due to the latter's closeness to him at the time of the first shot. This close distance was testified to by Garino during his direct examination, to wit:

Prosecutor Paolo Talban:

Q: Could you enlighten us, Mr. Witness, could you tell us your exact position at the time you were fired upon by the accused?

Meyer

- A: My back was turned to the accused.
- Q: Assume, Mr. Witness, the place where you are now seating as a point of reference, could you tell us from what direction did the accused come from?
- A: If this is the jeep, he came from the back portion of the jeep.
- Q: And approximately, how far away were you from the accused when he emerged from his house and fired at you?
- A: One and a half arms[-]length, sir.³⁷ (Emphasis omitted)

However, Garino's alluded justification only draws further attention to yet another questionable facet in Garino's testimony, which was Fernandez's apparent point-blank miss even when he was less than two meters away from Garino when he presumably shot the latter. The Court finds it unlikely that Fernandez, or any other individual, would miss at almost point-blank range. This, especially by Fernandez who is a former police officer and who would have considerable skill in both aiming and shooting a firearm. The rapidity of the events unfolding would even go against Garino's attestation that he was able to identify his assailant. Logically, Garino would not stick around to take a closer look at his assailant with his life in danger, especially at that close a distance. In fact, it is a strange assumption that Garino would even be able to run away at all, considering the depth of the wound inflicted on him, by his own account. It is incredulous that, if Fernandez intended to kill Garino, the former would allow Garino to stagger away instead of finishing the job or even attempting to flee from the scene of the crime.

The foregoing makes it highly doubtful that Garino was able to identify Fernandez as the perpetrator of the crime. While the Court does not question that Garino was indeed shot, the Court has its misgivings that it was indeed Fernandez who shot him, especially if the only proof adduced is Garino's testimony.

Second, the Court finds as a misstep on the part of the lower courts that they did not question the circumstances or even the identity of Garino's alleged companion during the night of the shooting. Even putting aside his non-presentation during trial as a witness, the Court finds it baffling that Garino did not even know his name, or at least could not identify him. A survey of the transcript of records will show this strange unfamiliarity, viz.:

³⁷ Rollo, pp. 82-83.

Meyer

TSN
04 July 2012
Witness: Noel Garino

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x x x x

PROS. TALBAN:
On that given time and date, what were you doing?

WITNESS:
I met a friend during that time and we were inside the jeep.

PROS. TALBAN:
And could you give is [sic] the name of that friend of yours?

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WITNESS:
I don't know the name sir.³⁸

There was no explanation as to why Garino could not identify his companion. The Court finds that this omission without explanation casts doubt on the narration of events from the part of Garino. To note, Garino also failed to explain why he and his "companion" were there in the middle of the night, inside a jeepney, property of someone else, and, by Garino's own admission, right outside another's property. The logical explanation then is that either Garino was doing something worthy of suspicion to which he was trying to cover up the same, or his companion did not exist, which would create doubt as to the veracity of his testimony.

Thus, the Court finds that Garino's testimony is tainted with inconsistencies and lack of substantiation. Ultimately, it becomes a verbal tussle between Garino and Fernandez, and of course both sides would be very much biased towards their version of the story. In a criminal case however, it is the onus of the complainant, through the prosecution, to present a case laden with surety and without the shadow of the doubt, and this is lacking in the case herein.

Third, the Court finds it puzzling that the prosecution only presented three witnesses: Garino himself, his brother who was not present and who only assisted in filing the complaint, and Dr. Sanchez, who testified as to Garino's severity of wounds. The latter two were not even directly involved in the incident. While the Court is aware as to the jurisprudential pronouncement that it is not in the realm of courts to decide the order or

³⁸ Id. at 99-100.

Meyer

even the presentation of witnesses, with Garino's testimony suffering from infirmities, the Court finds that circumstantial evidence is necessary in order to bolster his narration, corroborative testimony from either his unnamed companion during the shooting, or even from Barcenas herself. The lack of this the Court finds troubling especially as a second voice could and should have shed more light on the truth.

Fourth, it was not shown that Fernandez had any motive for shooting Garino. While motive is generally immaterial when it comes to considering intent in a criminal case, it can help facilitate the intrusion into the accused's mind especially when there is an issue as to the identity of the latter. In *People v. De Guzman*,³⁹ the Court explained, thus:

Generally, the motive of the accused in a criminal case is immaterial and does not have to be proven. Proof of the same, however, becomes relevant and essential when, as in this case, the identity of the assailant is in question. In *People v. Vidad*, the Court said:

It is true that it is not indispensable to conviction for murder that the particular motive for taking the life of a human being shall be established at the trial, and that in general when the commission of a crime is clearly proven, conviction may and should follow even where the reason for its commission is unknown; but in many criminal cases, one of the most important aids in completing the proof of the commission of the crime by the accused is the introduction of evidence disclosing the motive which tempted the mind to indulge in the criminal act.⁴⁰ (Citations omitted)

In the case at bar, there is no indication that Fernandez and Garino knew each other beforehand, and as mentioned, it seems to be a matter of mere convenience that Garino zeroed in on Fernandez as the culprit only after a conversation with Barcenas. There was also no plausible reason for Fernandez to risk his safety and life in shooting Garino, especially with a possible witness in tow. If Fernandez wanted to end Garino's life, it would also be strange that he would not run after Garino and finish the job, as Garino would certainly have been hobbled as a result of the wound.

Fifth, the Court finds that the lower courts hastily brushed off Fernandez's defense of alibi, to the latter's detriment. After all, considering the fact that the accused and the victim did not know each other and had not heard about each other prior to the incident, with even Fernandez stating that the first time he saw Garino was during the trial, it makes complete sense

³⁹ 690 Phil. 701 (2012).

⁴⁰ Id. at 716-717.

Meyer

that Fernandez's flat denial that he was a participant in the offense, and his whereabouts during that time would be his only defenses.

In the case of *Lejano v. People*,⁴¹ the Court expanded on the alibi *versus* positive identification conundrum, to wit:

The trial court and the [CA] are one in rejecting as weak Webb's alibi. Their reason is uniform: Webb's alibi cannot stand against Alfaro's positive identification of him as the rapist and killer of Carmela and, apparently, the killer as well of her mother and younger sister. Because of this, to the lower courts, Webb's denial and alibi were fabricated.

But not all denials and alibis should be regarded as fabricated. Indeed, if the accused is truly innocent, he can have no other defense but denial and alibi. So how can such accused penetrate a mind that has been made cynical by the rule drilled into his head that a defense of alibi is a hangman's noose in the face of a witness positively swearing, "I saw him do it."? Most judges believe that such assertion automatically dooms an alibi which is so easy to fabricate. This quick stereotype thinking, however, is distressing. For how else can the truth that the accused is really innocent have any chance of prevailing over such a stone-cast tenet?

There is only one way. A judge must keep an open mind. He must guard against slipping into hasty conclusion, often arising from a desire to quickly finish the job of deciding a case. A positive declaration from a witness that he saw the accused commit the crime should not automatically cancel out the accused's claim that he did not do it.⁴²

The tale of this case's tape is that the prosecution relied solely on Garino's testimony that Fernandez was the one who shot him. Aside from his positive identification, which the Court finds too unconvincing, no legitimate and convincing evidence was offered to prove the veracity of the events as Garino alleges. With this, Fernandez's justification of alibi finds stronger ground, and the Court is thus obliged to favor it while taking into absolute consideration the promise that reasonable doubt is sufficient to acquit an accused individual of the crime.

In *People v. Nuñez*,⁴³ the Court held, thus:

Conviction in criminal cases demands proof beyond reasonable doubt. While this does not require absolute certainty, it calls for moral certainty. It is the degree of proof that appeals to a magistrate's conscience:

⁴¹ 652 Phil. 512 (2010).

⁴² Id. at 581.

⁴³ G.R. No. 209342, October 4, 2017, 842 SCRA 97.

Meyer

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience *must* be satisfied that the accused is responsible for the offense charged.⁴⁴ (Emphasis supplied)

Our laws proscribe the conviction of the accused if doubt taints the circumstances of the crime. And, for good reason. A man's life and liberty are not aspects to be trifled with, which is why only the most exacting standard is required in order to find a person criminally liable. In this case, more than just reasonable doubt is attendant to the circumstances of the crime alleged. While the Court does not deny that Garino indeed suffered a grievous injury, the Court does heavily question if Fernandez was the one who inflicted it. This doubt is enough to sway the mind of the Court and acquit Fernandez.

Henceforth, the Court is constrained to reverse the RTC and the CA rulings due to the presence of lingering doubts which are inconsistent with the requirement of guilt beyond reasonable doubt as quantum of evidence to convict an accused in a criminal case. Fernandez is entitled to an acquittal, as a matter of right, because the prosecution has failed to prove his guilt beyond reasonable doubt.

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated February 15, 2017 and the Resolution dated August 17, 2018 of the Court of Appeals in CA-G.R. CR No. 38074 are hereby **REVERSED** and **SET ASIDE**.

Petitioner Fernando N. Fernandez is **ACQUITTED** of the charge of Frustrated Murder on the ground of reasonable doubt.

Let entry of judgment be issued immediately.

⁴⁴ Id. at 140-141.

Meyer

SO ORDERED.

Meyer
ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:

MP Bernabe
ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RPH
RAMON PAUL L. HERNANDO
Associate Justice

HJPB
HENRI JEAN PAUL B. INTING
Associate Justice

EDS
EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MP Bernabe
ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

Meyer

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice