



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 199877

Present:

CARPIO, J.,
Chairperson,
BRION,
VILLARAMA, JR.,*
PEREZ, and
REYES, JJ.

- versus -

ARTURO LARA y ORBISTA,
Accused-Appellant.

Promulgated:

AUG 13 2012

X-----X

DECISION

REYES, J.:

This is an automatic appeal from the Decision¹ dated July 28, 2011 of the Court of Appeals (CA) in CA-G.R. CR HC No. 03685. The CA affirmed the Decision² dated October 1, 2008 of the Regional Trial Court (RTC), Pasig City, Branch 268, finding Arturo Lara (Lara) guilty beyond reasonable doubt of robbery with homicide.

* Additional member per Special Order No. 1274 dated July 30, 2012 *vice* Associate Justice Maria Lourdes P.A. Sereno.

¹ Penned by Associate Justice Japar B. Dimaampao, with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Jane Aurora C. Lantion, concurring; *rollo*, pp. 2-13.

² Under the sala of Judge Amelia G. Manalastas; *CA rollo*, pp. 41-47.

On June 14, 2001, an Information³ charging Lara with robbery with homicide was filed with the RTC:

On or about May 31, 2001, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, armed with a gun, conspiring and confederating together with one unidentified person who is still at-large, and both of them mutually helping and aiding one another, with intent to gain, and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously take, steal and divest from Joselito M. Bautista cash money amounting to ₱230,000.00 more or less and belonging to San Sebastian Allied Services, Inc. represented by Enrique Sumulong; that on the occasion of said robbery, the said accused, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault, and shoot said Joselito M. Bautista with the said gun, thereby inflicting upon the latter mortal wounds which directly caused his death.

Contrary to law.⁴

Following Lara's plea of not guilty, trial ensued. The prosecution presented three (3) witnesses: Enrique Sumulong (Sumulong), SPO1 Bernard Cruz (SPO1 Cruz) and PO3 Efren Calix (PO3 Calix).

Sumulong testified that: (a) he was an accounting staff of San Sebastian Allied Services, Inc. (San Sebastian); (b) on May 31, 2001 and at around 9:00 in the morning, he withdrew the amount of ₱230,000.00 from the Metrobank-Mabini Branch, Pasig City to defray the salaries of the employees of San Sebastian; (c) in going to the bank, he rode a pick-up and was accompanied by Virgilio Manacob (Manacob), Jeff Atie (Atie) and Joselito Bautista (Bautista); (d) he placed the amount withdrawn in a black bag and immediately left the bank; (e) at around 10:30 in the morning, while they were at the intersection of Mercedes and Market Avenues, Pasig City, Lara suddenly appeared at the front passenger side of the pick-up and pointed a gun at him stating, "*Akin na ang pera, iyong bag, nasaan?*"; (f) Bautista, who was seated at the back, shouted, "*Wag mong ibigay*"; (g) heeding Bautista's advice, he threw the bag in Bautista's direction; (h) after getting hold of the bag, Bautista alighted from the pick-up and ran; (i) seeing

³ Id. at 23-24.

⁴ Id. at 23.

Bautista, Lara ran after him while firing his gun; (j) when he had the chance to get out of the pick-up, he ran towards Mercedes Plaza and called up the office of San Sebastian to relay the incident; (k) when he went back to where the pick-up was parked, he went to the rear portion of the vehicle and saw blood on the ground; (l) he was informed by one bystander that Bautista was shot and the bag was taken away from him; (m) when *barangay* officials and the police arrived, he and his two (2) other companions were brought to the police station for investigation; (n) on June 7, 2001, while on his way to *Barangay* Maybunga, Pasig City, he saw Lara walking along Dr. Pilapil Street, *Barangay* San Miguel, Pasig City; (o) he alerted the police and Lara was thereafter arrested; and (p) at the police station, he, Atie and Manacob identified Lara as the one who shot and robbed them of San Sebastian's money.⁵

SPO1 Cruz testified that: (a) he was assigned at the Follow-Up Unit of the Pasig City Police Station; (b) at around 7:55 in the evening of June 7, 2001, Sumulong went to the police station and informed him that he saw Lara walking along Dr. Pilapil Street; (c) four (4) police officers and Sumulong went to Dr. Pilapil Street where they saw Lara, who Sumulong identified; (d) they then approached Lara and invited him for questioning; (e) at the police station, Lara was placed in a line-up where he was positively identified by Sumulong, Manacob and Atie; and (f) after being identified, Lara was informed of his rights and subsequently detained.⁶

PO3 Calix testified that: (a) he was a member of the Criminal Investigation Unit of the Pasig City Police Station; (b) on May 31, 2001, he was informed of a robbery that took place at the corner of Mercedes and Market Avenues, Pasig City; (c) he, together with three (3) other police officers, proceeded to the crime scene; (d) upon arriving thereat, one of the police officers who were able to respond ahead of them, handed to him eleven (11) pieces of empty shells and six (6) deformed slugs of a 9mm

⁵ Id. at 42-43.

⁶ Id. at 43-44.

pistol; (e) as part of his investigation, he interviewed Sumulong, Atie, Manacob at the police station; and (f) before Bautista died, he was able to interview Bautista at the hospital where the latter was brought after the incident.⁷

In his defense, Lara testified that: (a) he was a plumber who resided at Dr. Pilapil Street, San Miguel, Pasig City; (b) on May 31, 2001, he was at his house, digging a sewer trench while his brother, Wilfredo, was constructing a comfort room; (c) they were working from 8:00 in the morning until 3:00 in the afternoon; (d) on June 7, 2001 and at around 7:00 in the evening, while he was at the house of one of his cousins, police officers arrived and asked him if he was Arturo Lara; (e) after confirming that he was Arturo Lara, the police officers asked him to go with them to the *Barangay Hall*; (f) he voluntarily went with them and while inside the patrol car, one of the policemen said, “*You are lucky, we were able to caught you in your house, if in another place we will kill you*” (sic); (g) he was brought to the police station and not the *barangay* hall as he was earlier told where he was investigated for robbery with homicide; (h) when he told the police that he was at home when the subject incident took place, the police challenged him to produce witnesses; (i) when his witnesses arrived at the station, one of the police officers told them to come back the following day; (j) while he was at the police line-up holding a name plate, a police officer told Sumulong and Atie, “*Ituru nyo na yan at uuwi na tayo*”; and (k) when his witnesses arrived the following day, they were told that he will be subjected to an inquest.⁸

To corroborate his testimony, Lara presented one of his neighbors, Simplicia Delos Reyes. She testified that on May 31, 2001, while she was manning her store, she saw Lara working on a sewer trench from 9:00 in the morning to 5:00 in the afternoon.⁹ Lara also presented his sister, Edjosa

⁷ Id. at 44.

⁸ Id. at 44-45.

⁹ Id. at 46.

Manalo, who testified that he was working on a sewer line the whole day of May 31, 2001.¹⁰

On October 1, 2008, the RTC convicted Lara of robbery with homicide in a Decision,¹¹ the dispositive portion of which states:

WHEREFORE, premises considered, this Court finds the accused ARTURO LARA Y Orbista GUILTY beyond reasonable doubt of the crime of Robbery with Homicide, defined and penalized under Article 294 (1) as amended by Republic Act 7659, and is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua, with all the accessory penalties prescribed by law.

Accused is further ordered to indemnify the heirs of the deceased the sum of Php50,000.00 as civil indemnity and Php230,000.00 representing the money carted by the said accused.

SO ORDERED.¹²

The RTC rejected Lara's defense of alibi as follows:

The prosecution's witness Enrique Sumulong positively identified accused Arturo Lara as the person who carted away the payroll money of San Sebastian Allied Services, Inc., on May 31, 2001 at around 10:30 o'clock in the morning along the corner of Mercedez and Market Ave., Pasig City and the one who shot Joselito Bautista which caused his instantaneous death on the same day. As repeatedly held by the Supreme Court, "***For alibi to prosper, an accused must show he was at some other place for such a period of time that it was impossible for him to have been at the crime scene at the time of the commission of the crime***" (People versus Bano, 419 SCRA 697). Considering the proximity of the distance between the place of the incident and the residence of the accused where he allegedly stayed the whole day of May 31, 2001, it is not physically impossible for him to be at the crime scene within the same barangay. The positive identification of the accused which were categorical and consistent and without any showing of ill motive on the part of the eyewitnesses, should prevail over the alibi and denial of the accused whose testimony was not substantiated by clear and convincing evidence (People versus Aves 420 SCRA 259).¹³ (Emphasis supplied)

¹⁰ Id.

¹¹ Id. at 41-47.

¹² Id. at 47.

¹³ Id. at 46.

On appeal, Lara pointed out several errors that supposedly attended his conviction. First, that he was arrested without a warrant under circumstances that do not justify a warrantless arrest rendered void all proceedings including those that led to his conviction. Second, he was not assisted by counsel when the police placed him in a line-up to be identified by the witnesses for the prosecution in violation of Section 12, Article III of the Constitution. The police line-up is part of custodial investigation and his right to counsel had already attached. Third, the prosecution failed to prove his guilt beyond reasonable doubt. Specifically, the prosecution failed to present a witness who actually saw him commit the alleged acts. Sumulong merely presumed that he was the one who shot Bautista and who took the bag of money from him. The physical description of Lara that Sumulong gave to the police was different from the one he gave during the trial, indicating that he did not have a fair glimpse of the perpetrator. Moreover, this gives rise to the possibility that it was his unidentified companion who shot Bautista and took possession of the money. Hence, it cannot be reasonably claimed that his conviction was attended with moral certainty. Fourth, the trial court erred in discounting the testimony of his witnesses. Without any showing that they were impelled by improper motives in testifying in his favor, their testimonies should have been given the credence they deserve. While his two (2) witnesses were his sister and neighbor, this does not by itself suggest the existence of bias or impair their credibility.

The CA affirmed Lara's conviction. That Lara was supposedly arrested without a warrant may not serve as a ground to invalidate the proceedings leading to his conviction considering its belated invocation. Any objections to the legality of the warrantless arrest should have been raised in a motion to quash duly filed before the accused enters his plea; otherwise, it is deemed waived. Further, that the accused was illegally arrested is not a ground to set aside conviction duly arrived at and based on evidence that sufficiently establishes culpability:

Appellant's avowal could hardly wash.

It is a shopworn doctrine that any objection involving a warrant of arrest or the acquisition of jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived. In voluntarily submitting himself to the court by entering a plea, instead of filing a motion to quash the information for lack of jurisdiction over his person, accused-appellant is deemed to have waived his right to assail the legality of his arrest. Applying the foregoing jurisprudential touchstone, appellant is estopped from questioning the validity of his arrest since he never raised this issue before arraignment or moved to quash the *Information*.

What is more, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after trial free from error. The warrantless arrest, even if illegal, cannot render void all other proceedings including those leading to the conviction of the appellants and his co-accused, nor can the state be deprived of its right to convict the guilty when all the facts on record point to their culpability.¹⁴ (Citations omitted)

As to whether the identification of Lara during the police line-up is inadmissible as his right to counsel was violated, the CA ruled that there was no legal compulsion to afford him a counsel during a police line-up since the latter is not part of custodial investigation.

Appellant's assertion that he was under custodial investigation at the time he was identified in a police line-up and therefore had the right to counsel does not hold water. Ingrained in our jurisdiction is the rule that an accused is not entitled to the assistance of counsel in a police line-up considering that such is usually not a part of custodial investigation. An exception to this rule is when the accused had been the focus of police attention at the start of the investigation. In the case at bench, appellant was identified in a police line-up by prosecution witnesses from a group of persons gathered for the purpose. However, there was no proof that appellant was interrogated at all or that a statement or confession was extracted from him. *A priori*, We refuse to hearken to appellant's hollow cry that he was deprived of his constitutional right to counsel given the hard fact that during the police line-up, the accusatory process had not yet commenced.

Assuming ex hypothesi that appellant was subjected to interrogation sans counsel during the police line-up, it does not in any way affect his culpability. Any allegation of violation of rights during custodial investigation is relevant and material only to cases in which an extrajudicial admission or confession extracted from the accused becomes the basis of their conviction. Here, appellant was convicted based on the testimony of a prosecution witness and not on his alleged uncounseled confession or admission.¹⁵ (Citations omitted)

¹⁴ *Rollo*, p. 5.

¹⁵ *Id.* at 5-6.

The CA addressed Lara's claim that the prosecution's failure to present a witness who actually saw him commit the crime charged as follows:

Third. Appellant takes umbrage at the alleged failure of the prosecution to present an eyewitness to prove that he shot the victim and took the money.

Such posture is unpersuasive.

Contrary to appellant's assertion, prosecution witness Sumulong actually saw him shoot Bautista, the victim. Sumulong vividly recounted, viz:

“Q When you said that “tinutukan ka”, aside from this act was there any other words spoken by this person?

A There was, sir.

Q What did he say?

A “Nasaan ang bag ilabas mo yung pera”, sir.

Q Where were you looking when this person approached you?

A I was looking at his face, sir.

Q And upon hearing those words, what did you do?

A I put out the money, sir, because I got afraid at that time.

Q Did you hand over the black bag containing the money to him?

A No, sir, because one of my companion(s) shouted not to give the money or the bag so I immediately threw away the bag at the back seat, sir.

Q And how long approximately was that person standing by your car window?

A Five (5) to ten (10) minutes, sir.

Q And after you have thrown the black bag containing money to the back of the vehicle, what did that person do?

A I saw Joey alight(ed) from the vehicle carrying the bag and ran away, sir, and **I also saw somebody shoot a gun?**

Q **Who was firing the gun?**

A **The one who held-up us, sir.**

Q By how, do you know his name?

A No, sir.

Q But if you can see him again, (were) you be able to recognize him?

A Yes, sir.

Q If he is in the courtroom, will you be able to recognize him?

A Yes, sir.

Q Please look around and please tell this Honorable Court whether indeed the person you saw holding you up at that time is in court?

A Yes, sir.

Q Will you please stand up and tap his shoulder to identify him?

Interpreter:

The witness tap the shoulder of a person sitting on the first bench of the courtroom wearing yellow t-shirt and black pants who when ask identify himself as Arturo Lara (sic).

Q And when as you said Joey got the bag. Alighted from the vehicle and ran away with it, what did the accused do? (sic)

A He shot Joey while running around our vehicle, sir.

Q Around how many shots according to your recollection were fired?

A There were several shots, more or less nine (9) shots, sir.

x x x x x x[""]

“Q So, you did not personally notice what had transpired or happened after you stepped down from the Nissan pick-up, that is correct?

A There was, sir, my companion Joselito Bautista was shot.

Q When you heard the gunfire, you were already proceeding towards that store to call your office by phone, that is correct?

A Not yet, sir, we were still inside the vehicle.

Q And was Joselito Bautista at the rear of the Nissan Sentra when you heard this gunfire?

A Yes, sir.

Q And so he was at the back, so the shooter was also at the back of the vehicle, that is correct?

A **Yes, sir, he went towards the rear portion of the vehicle, he followed Joselito Bautista and shot him.**

Q So, to be clear, when Joselito Bautista ran to the rear, this alleged holdup(p)er followed him?

A Yes, sir.

Q And that was the time(,) you heard this gunfire?

A Yes, sir.

Q So, you did not personally see who fired that firearm?

A Because at that time he was the one holding the gun, sir.

Q So, you are presuming that he was the one who fired the gun because he was holding the gun, am I correct?

A Yes, sir.”

x x x x

Under Section 4, Rule 133, of the Rules of Court, circumstantial evidence is sufficient for conviction if the following requisites concur:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Here, the following circumstantial evidence are tellingly sufficient to prove that the guilt of appellant is beyond reasonable doubt, *viz*:

1. While the vehicle was at the intersection of Mercedes and Market Avenues, Pasig City, appellant suddenly emerged and pointed a gun at prosecution witness Sumulong, demanding from him to produce the bag containing the money[.]
2. Prosecution witness Sumulong threw the bag to the victim who was then seated at the backseat of the vehicle.
3. The victim alighted from vehicle carrying the bag.
4. Appellant chased and fired several shots at the victim.
5. The victim sustained several gunshot wounds.
6. The police officers recovered from the scene of the crime six deformed empty shells.¹⁶ (Citations omitted and emphasis supplied)

¹⁶

Id. at 7-11.

Finally, the CA found that Lara's alibi failed to convince. Specifically:

Deeply embedded in our jurisprudence is the rule that positive identification of the accused, where categorical and consistent, without any showing of ill motive on the part of the eyewitness testifying, should prevail over the alibi and denial of appellants, whose testimonies are not substantiated by clear and convincing evidence.

All the more, to establish alibi the accused must prove (a) that he was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the scene of the crime. Physical impossibility "refers to the distance between the place where the accused was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. Appellant miserably failed to prove the physical impossibility of his presence at the *locus criminis* at the time of the perpetration of the felonious act. He himself admitted that his house was just a stone's throw (about three minutes away) from the crime scene.¹⁷ (Citations omitted)

In a Resolution¹⁸ dated February 1, 2012, this Court accepted the appeal as the penalty imposed was *reclusion perpetua* and the parties were afforded an opportunity to file their supplemental briefs. Both parties waived their right to do so, stating that they would adopt the allegations in their respective briefs that they filed with the CA.

Issues

The present review of Lara's conviction for robbery with homicide gives rise to the following issues:

- a. whether the identification made by Sumulong, Atie and Manacob in the police line-up is inadmissible because Lara stood therein without the assistance of counsel;
- b. whether Lara's supposedly illegal arrest may be raised for the first time on appeal for the purpose of nullifying his conviction;
- c. whether there is sufficient evidence to convict Lara; and

¹⁷ Id. at 11-12.

¹⁸ Id. at 19-20.

- d. whether Lara's alibi can be given credence so as to exonerate him from the crime charged.

Our Ruling

This Court resolves to deny the appeal.

I

Jurisdiction over the person of the accused may be acquired through compulsory process such as a warrant of arrest or through his voluntary appearance, such as when he surrenders to the police or to the court.¹⁹ Any objection to the arrest or acquisition of jurisdiction over the person of the accused must be made before he enters his plea, otherwise the objection is deemed waived. An accused submits to the jurisdiction of the trial court upon entering a plea and participating actively in the trial and this precludes him invoking any irregularities that may have attended his arrest.²⁰ Furthermore, the illegal arrest of an accused is not a sufficient ground to reverse and set aside a conviction that was arrived upon a complaint duly filed and a trial conducted without error.²¹ As Section 9, Rule 117 of the Revised Rules of Criminal Procedure provides:

Sec. 9. Failure to move to quash or to allege any ground therefor.
— The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g) and (i) of Section 3 of this Rule.

¹⁹ *Miranda v. Tuliao*, 520 Phil. 907, 917 (2006).

²⁰ See *People v. Ayangao*, 471 Phil. 379, 387-388 (2004).

²¹ See *Rebellion v. People*, G.R. No. 175700, July 5, 2010, 623 SCRA 343, 348.

II

Contrary to Lara's claim, that he was not provided with counsel when he was placed in a police line-up did not invalidate the proceedings leading to his conviction. That he stood at the police line-up without the assistance of counsel did not render Sumulong's identification of Lara inadmissible. The right to counsel is deemed to have arisen at the precise moment custodial investigation begins and being made to stand in a police line-up is not the starting point or a part of custodial investigation. As this Court previously ruled in *People v. Amestuzo*:²²

The contention is not meritorious. The guarantees of Sec. 12 (1), Art. III of the 1987 Constitution, or the so-called *Miranda* rights, may be invoked only by a person while he is under custodial investigation. Custodial investigation starts when the police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect taken into custody by the police who starts the interrogation and propounds questions to the person to elicit incriminating statements. Police line-up is not part of the custodial investigation; hence, the right to counsel guaranteed by the Constitution cannot yet be invoked at this stage. This was settled in the case of *People vs. Lamsing* and in the more recent case of *People vs. Salvatierra*. The right to be assisted by counsel attaches only during custodial investigation and cannot be claimed by the accused during identification in a police line-up because it is not part of the custodial investigation process. This is because during a police line-up, the process has not yet shifted from the investigatory to the accusatory and it is usually the witness or the complainant who is interrogated and who gives a statement in the course of the line-up.²³ (Citations omitted)

III

It is apparent from the assailed decision of the CA that the finding of guilt against Lara is based on circumstantial evidence. The CA allegedly erred in this wise considering that only direct and not circumstantial evidence can overcome the presumption of innocence.

²² 413 Phil. 500 (2001).

²³ Id. at 508-509.

However, well-settled is the rule that direct evidence of the commission of the crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt. Even in the absence of direct evidence, conviction can be had if the established circumstances constitute an unbroken chain, consistent with each other and to the hypothesis that the accused is guilty, to the exclusion of all other hypothesis that he is not.²⁴

Under Section 4, Rule 133 of the Revised Rules on Criminal Procedure, circumstantial evidence sufficed to convict upon the concurrence of the following requisites: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

It is not only by direct evidence that an accused may be convicted of the crime for which he is charged. Resort to circumstantial evidence is essential since to insist on direct testimony would, in many cases, result in setting felons free and denying proper protection to the community.²⁵

As the CA correctly ruled, the following circumstances established by the evidence for the prosecution strongly indicate Lara's guilt: (a) while the vehicle Sumulong, Atie, Manacob and Bautista were riding was at the intersection of Mercedes and Market Avenues, he appeared at the front passenger side thereof armed with a gun; (b) while pointing the gun at Sumulong who was at the front passenger seat, Lara demanded that Sumulong give him the bag containing the money; (c) instead of giving the bag to Lara, Sumulong gave it to Bautista who was seated at the back of the pick-up; (d) when Bautista got hold of the bag, he alighted and ran towards the back of the pick-up; (e) Lara ran after Bautista and while doing so, fired his gun at Bautista's direction; (f) Bautista sustained several gunshot

²⁴ *People v. Pascual, Jr.*, 432 Phil. 224, 231 (2002).

²⁵ *People v. dela Cruz*, 397 Phil. 401, 420 (2000), citing *People v. Geron*, 346 Phil. 14, 24 (1997).

wounds; and (g) Bautista's blood was on the crime scene and empty shells were recovered therefrom.

Indeed, in cases of robbery with homicide, the taking of personal property with intent to gain must itself be established beyond reasonable doubt. Conclusive evidence proving the physical act of asportation by the accused must be presented by the prosecution. It must be shown that the original criminal design of the culprit was robbery and the homicide was perpetrated with a view to the consummation of the robbery by reason or on the occasion of the robbery.²⁶ The mere presence of the accused at the crime scene is not enough to implicate him. It is essential to prove the intent to rob and the use of violence was necessary to realize such intent.

In this case, Lara's intent to gain is proven by Sumulong's positive narration that it was Lara who pointed the gun at him and demanded that the bag containing the money be turned over to him. That Lara resorted to violence in order to actualize his intent to gain is proven by Sumulong's testimony that he saw Lara fire the gun at the direction of Bautista, who was running away from the pick-up in order to prevent Lara from taking possession of the money.

Notably, the incident took place in broad daylight and in the middle of a street. Thus, where considerations of visibility are favorable and the witness does not appear to be biased against the accused, his or her assertions as to the identity of the malefactor should be normally accepted.²⁷ Lara did not allege, much less, convincingly demonstrate that Sumulong was impelled by improper or malicious motives to impute upon him, however perjurious, such a serious charge. Thus, his testimony, which the trial court found to be forthright and credible, is worthy of full faith and credit and should not be disturbed. If an accused had nothing to do with the crime, it is against the natural order of events and of human nature and against the

²⁶ *People v. Geron*, 346 Phil. 14, 26 (1997).

²⁷ *People v. Santito, Jr.*, 278 Phil. 100, 113 (1991).

presumption of good faith that a prosecution witness would falsely testify against the former.²⁸

IV

In view of Sumulong's positive identification of Lara, the CA was correct in denying Lara's alibi outright. It is well-settled that positive identification prevails over alibi, which is inherently a weak defense. Such is the rule, for as a defense, alibi is easy to concoct, and difficult to disapprove.²⁹

Moreover, in order for the defense of alibi to prosper, it is not enough to prove that the accused was somewhere else when the offense was committed, but it must likewise be demonstrated that he was so far away that it was not possible for him to have been physically present at the place of the crime or its immediate vicinity at the time of its commission. Due to its doubtful nature, alibi must be supported by clear and convincing proof.

In this case, the proximity of Lara's house at the scene of the crime wholly negates his alibi. Assuming as true Lara's claim and that of his witnesses that he was digging a sewer trench on the day of the incident, it is possible that his witnesses may not have noticed him leaving and returning given that the distance between his house and the place where the subject incident took place can be negotiated, even by walking, in just a matter of minutes. Simply put, Lara and his witnesses failed to prove that it is well-nigh impossible for him to be at the scene of the crime.

In fine, the assailed decision of the CA is affirmed in all respects.

²⁸ *People v. Jumamoy*, G.R. No. 101584, April 7, 1993, 221 SCRA 333, 344.

²⁹ *People v. Aminola*, G.R. No. 178062, September 8, 2010, 630 SCRA 384, 394-395.


WHEREFORE, premises considered, the Decision dated July 28, 2011 of the Court of Appeals in CA-G.R. CR HC No. 03685 is hereby **AFFIRMED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:




ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division



ARTURO D. BRION
Associate Justice



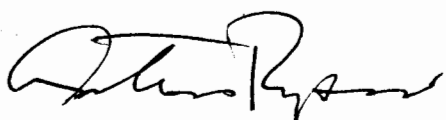
MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296
The Judiciary Act of 1948, as amended)