

G.R. No. L-5015

[ G.R. No. L-5015. May 31, 1957 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEGARIO LLAGAS, JACINTO MEJIO, ANICETO MARAVILLAS, PEDRO BUCOL AND PASCUAL BUCOL, DEFENDANTS-APPELLANTS.**

[G.R. No. L-5016, May 31, 1957]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PATERIO ADAME, DEFENDANT-APPELLANT.**

[G.R. No. L-5017, May 31, 1957]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAXIMO CABRERA, DEFENDANTS-APPELLANTS.**

## **D E C I S I O N**

### **PER CURIAM:**

In the morning of April 23, 1950, Ang Yu alias Ang Beng, his wife Tan Chu Pek, their four children, named Cayetano, Tomas, Milagros, and Jose (aged 9, 8, 3 and 2, respectively) and their maid Dominga Barcial were found murdered in their house in barrio Lamitan, municipality of Kidapawan, Cotabato province.

Investigation by the authorities revealed that the killing was connected with robbery and pointed to Maximino Cabrera as one of the perpetrators, and so a complaint for robbery with multiple homicide was filed against him in the justice of the peace court of that town. Further investigation having revealed that Paterio Adame was with Cabrera in the commission of the crime, a similar complaint was also filed against Adame in the same court. Thereafter, information having been received that Legario Llagas, a laborer working for Adame at P1.50 a day, had been spending money lavishly in his hometown of Salay, Oriental Misamis, where he went after the discovery of the crime, a complaint was likewise filed against him in the same court, charging him with the same offense. Arrested and

investigated, Llagas admitted having committed the crime charged and at the same time implicated Maximino Cabrera, Paterio Adame, Jacinto Mejio and Aniceto Maravillas. The two last named, that is, Jacinto Mejio and Aniceto Maravillas, on their part confessed their participation and implicated Pedro Bucol and his brother Pascual Bucol as accessories after the fact for having received part of the loot with knowledge of its source. As a result, the complaint against Llagas was amended to include Jacinto Mejio, Aniceto Maravillas, Pedro Bucol and Pascual Bucol.

Maximino Cabrera having pleaded guilty at the preliminary investigation and the other defendants having on their part waived their right to such investigation, all of them were bound over to the Court of First Instance, where the Fiscal filed in each of the three cases a separate information, the first two accusing all of the defendants as principals of the crime of robbery with multiple homicide, and the last one accusing five of them (Maximino Cabrera, Paterio Adame, Legario Llagas, Jacinto Mejio, Aniceto Maravillas) as principals of the same crime, and the other two (Pedro Bucol and Pascual Bucol) as accessories after the fact.

Arraigned in the Court of First Instance, the defendants pleaded not guilty, except Legario Llagas who entered a plea admitting his guilt. Sentence as to him, however, was deferred until after the conclusion of the trial.

After the Government had presented evidence in two of the cases, prosecution and defense agreed that evidence already presented and still to be presented was also to be considered as evidence in the third case and that thereafter the three cases were to be tried together.

After trial, the court found all of the defendants guilty as charged and, taking into account the aggravating circumstances of abuse of superior strength, nocturnity, dwelling and band, compensated by the plea of guilty in the Legario Llagas, and with no mitigating circumstance in the case of the other defendants, sentenced them as follows: Legario Llagas, Maximino Cabrera, Paterio Adame, Jacinto Mejio and Aniceto Maravillas, as principals, to suffer the penalty of death, and Pedro Bucol and Pascual Bucol as accessories, to suffer an indeterminate penalty of from 4 years, 2 months and 1 day of *prision correccional*, as minimum, to 10 years and 1 day of *prision mayor*, as maximum, together with the accessory penalties prescribed by law. In addition, the defendants were sentenced jointly and severally to indemnify the heirs of the deceased in the sum of P3,000, for the money stolen by them, with subsidiary imprisonment in case of insolvency, and to pay the heirs of each of the seven deceased the sum of P4,000, and costs.

From this sentence all of the defendants appealed, including Legario Llagas, who had entered a plea of guilty. But his appeal only questions the penalty imposed upon him.

The evidence shows that at about 7 o'clock in the morning of April 21, 1950, the now deceased Ang Beng, who was a merchant and had a sari-sari store where he and his family were living, in the barrio already mentioned, received from another merchant, Ang Liong Chay, in Sta. Ana, Davao City the sum of P3,400 as advance payment for a truck load of hemp. After receiving the money, Ang Beng immediately returned to Lamitan and, in the afternoon of that same day, he called to his house his creditor Te Chong Guan and paid him the P300 he owed him. Te saw that in the trunk from which Ang Beng took the P300 there was still plenty of money left, consisting of 20-, 10-, and 5-Peso bills.

At about 7 o'clock the following morning, Te was informed by someone that Ang Beng's store, which usually opened early, was still closed, and going to that store, Te was told by the people whom he found there that they had peeped through holes on the wall and seen blood on the table inside. Peeping through the holes himself. Te also saw some blood stains, and so he went to Kidapawan and reported the matter to the president of the Chinese association there, who, in turn, notified the Philippine Constabulary and the municipal authorities. Repairing to Ang Beng's store, the authorities found the door closed so that they had to force it open. Inside the store they found merchandise in disorder, and upstairs the dead bodies of Ang Beng and his entire family and maid. The money which Te saw the preceding afternoon was gone and the clothes in the trunk where Ang Beng had kept it were in disarray. Dr. Bienvenido P. Izon, of the municipal charity clinic, examined the bodies of the deceased victims and found that they had died of hemorrhage caused by the wounds received by them, which were described by him as follows:

“(A) CAYETANO ANG, 9 years old, male, single, student, Chinese: -

1. Wound, stab, thru & thru, wrist, right;
2. Wound, stab, thru & thru, middle 3rd, forearm, left;
3. Wound, stab, penetrating, just above left nipple;
4. Wound, stab, penetrating, base of neck, front.

(B) TOMAS ANG, 8 years old, 1 male, single, student, Chinese:-

1. Wound, stab, chin, penetrating;
2. Wound, stab, penetrating, breast, left;
3. Wound, stab, penetrating, middle of right shoulder.

(C) JOSE ANG, about 2 years old, male, single, child, Chinese:-

1. Wound, stab, penetrating, base of neck, front;
2. Wound, stab, penetrating, breast, left;
3. Wound, stab, penetrating, small, 1 inch medial to wound #2.

(D) MILAGROS ANG, about 3 years old, female, single, child, Chinese:-→

1. Wound, stab, penetrating, neck, left;
2. Wound, stab, penetrating, shoulder, right.

(E) ANG YU, 33 years old, male, married, merchant, Chinese:-

1. Wound, stab, penetrating, base of neck, a little to the right;
2. Wound, stab, penetrating, upper 3rd, arm, left;
3. Wound, stab, penetrating , shoulder, right.

(F) DOMINGA BARCIAL, about 29 years old, female, single, housemaid, Filipina:→-

1. Wound, stab, cheek, left;
2. Wound, stab, penetrating, shoulder, left;
3. Wound, stab, penetrating, base of neck, front;
4. Wound, stab, penetrating, breast, left;
5. Wound, stab, penetrating, just below left scapula;
6. Wound, incised, superficial, hand, left;
7. Wound, incised, deep, wrist, right.

(G) TAN CHU PEK, 27 years old, female, married, housekeeper, Chinese:-

1. Wound, stab and incised, chin, right;
2. Wound, incised, middle of neck, front, 3 inches long;
3. Wound, stab, penetrating, base of neck, front;
4. Wound, stab, penetrating, shoulder, right near neck;
5. Wound, stab, penetrating, shoulder, right slightly above wound #4;
6. Wound, stab, penetrating, arm right;
7. Wound, stab, penetrating, lumbar, right.

The above Tan Chu Pek apparently is in the family way approximately 5th month." (Exh. "A".)

Corporal Simplicio Alindajao of the Philippine Constabulary, who was with the authorities that repaired to the victims' house on April 23, 1950, investigated the neighboring houses of Epifania Mahinay and the defendant Maximino Cabrera. In the latter's house, he found blood stains on the floor and wall and in an empty can and so he looked for Cabrera and when he found him he asked him about the blood stains. Cabrera said that the stains were from the blood of a rooster; but suspecting that they were from human blood, Alindajao cut a piece of the blood-stained wall, which was made of nipa, picked up the empty can and brought them to their barracks at Kidapawan together with Cabrera, who, however, was soon released though put under surveillance. On his return to the victims' house, Alindajao found inserted under the roof a pair of scissors stained with blood.

On April 26, 1950, Capt. Ricardo Espinosa of the Philippine Constabulary, together with Capt. Lugtu, Cpl. Alindajao, Justice of the Peace Sabulao of Kidapaw, and others, conducted an investigation at the scene of the crime. In the house of Cabrera, Capt. Espinosa noticed blood stains on the floor and wall and picked up a blood-stained GI hunting knife from a basket hung on the wall. Questioned by the captain, Cabrera at first tried to divert suspicion from himself by imputing the crime to those who, on the night of the murder, had serenaded Ang Beng's house; but on being confronted with the serenaders and furthermore informed that his own wife had already declared that he was not at home at the time the crime was supposed to have been committed, Cabrera confessed his participation in the crime and implicated Paterio Adame. His confession was reduced to writing; but after conferring with Adame he refused to sign it. Investigated again by Capt. Lugtu upon Capt. Espinosa's instructions, Cabrera changed his story by claiming to have been the sole author of the

crime. This second confession, which was written down in the form of questions and answers, Cabrera voluntarily signed before Judge Sabulao after it was read and translated to him.

Cpl. Cone Icdang, of the police force of Kidapawan, one of those who accompanied the authorities to the scene of the crime on April 23, 1950, also went to Cabrera's house, and noticing blood stains on the floor and wall, he tried to find out who the owner of the house was. He was still at it when the defendant Adame, coming from Ang Beng's house where he had been helping others make coffins, approached and, without being asked, told him that he saw the owner of the house butchering chicken that morning and that the stains were chicken blood. Asked who the owner of the house was, Adame said he did not know, and before he could be asked another question he left and went home.

Acting under orders from Cpl. Icdang, the policeman Antonio Ruiz followed Adame to his house and there found hidden behind a box or palay-container a scythe wrapped up in a pair of maong pants. Noticing the scythe and pants had blood stains on them, Ruiz asked Adame what the stains were. Adame replied that they were from tuba and from the blood of a chicken he had butchered. Not believing him, Ruiz took him to Cpl. Icdang together with the maong pants and the scythe. Adame admitted them to be his and became nervous and pale when questioned.

As already stated, the other defendant s, namely, Legario Llagas, Jacinto Mejio, Aniceto Maravillas, Pedro Bucol and Pascual Bucol, all confessed their participation in the crime. The confessions were reduce to writing and were freely and voluntarily signed by them.

The empty can, piece of nipa wall, and GI hunting knife taken from Cabrera's house; the scythe and maong pants taken from that of Adame; and the pair of scissors found in the house of the victims as well as the other GI hunting knife found in the bushes were all sent to the Chemistry and Balistics Section of the Philippine Constabulary for laboratory examination, and the result of chemic tests revealed that stains found on them were those of human blood.

The defendants, with the exception of Llagas, who pleaded guilty, denied participation in the crime and each tried to establish an alibi. Those of them who had signed confessions repudiated them as having been extracted through violence, albeit this claim, as will hereafter again be noted, was disproved by the investigators, the assistant fiscal and the justice of the peace. It is the contention of the defense that Llagas was the sole author of the

crime.

After going over the evidence, we find it hard to believe that it was the defendant Llagas alone that perpetrated the murder of Ang Beng and his entire family and housemaid. From the very evidence for the defense, it would appear that the killing of the seven victims did not take long. Children's cries and the excited voices of the other inmates of the house were heard for a short time and then there was silence. Considering that, as testified to by Llagas himself, the whole household was awakened, that the housemaid was able to get up from where she lay, and that Ang Beng was able to put up a struggle, and considering further the number of wounds received by the victims, it is most unlikely that one man alone could have done the butchery in such a comparatively short time. On the other hand, the evidence of guilt against each of the defendants is clear and convincing.

There is of course no question as to defendant Llagas' participation because he pleaded guilty.

The defendant Paterio Adame declared that the night of the crime, after taking supper and shelling corn he went to sleep and did not waken until about 3 'o'clock the following morning; that at that hour he got up, boiled coffee, drank it, sharpened his scythe and then went out to gather tuba; that at about 6:30 while he was still gathering tuba, one Taba called him and inquired why Ang Beng's store was still closed; that he went around the house of Ang Beng but did not discover anything; and that without peeping into the store or knocking at the door, he went home. We note, in the first place, that this defendant's claim that he was asleep in his house from bedtime that night up to 3 o'clock a. m. is discredited by his wife's testimony that at about 2 hours before midnight she woke him up when the dogs barked and the defendant Llagas, who was working for them and living in their house, arrived. And then while this defendant, unlike the others, did not sign any written confession, the circumstances of record prove him guilty.

Thus, although he claims to be among the first to notice that Ang Beng's store was still closed at 6:30 in the morning, which was unusual, and that, suspecting something wrong, he went around the house, it is strange that he did not peep in o knock at the door as anyone might be expected to do under the circumstances. Obviously, he already knew what was inside and didn't dare look at the result of his foul deed.

When Cpl. Icdang, upon finding blood stains on the floor and wall of defendant Cabrera's house, wanted to know who the house-owner was, Adame, without being asked, came to him

and volunteered the false information that the stains were chicken blood because he saw the owner of the house butchering chicken earlier that morning. The information was false because the stains were from chemical analysis found to be human blood and Adame himself, testifying at the trial, gave a different explanation about the stains by saying, in conformity with the testimony of Cabrera and their witness Leonila Caminade, that those stains were from blood that came from a rooster that was tied there when it was attacked by another cock. Obviously, Adame was trying to mislead the investigators, even going to the extent of saying that he did not know who the owner of the house was when, according to the testimony of his own wife, Cabrera, the owner, was their laborer.

Adame was also noticed to have suddenly left Ang Beng's house, where he was helping in the making of the coffins on learning that the agents of the law had found blood stains in Cabrera's house and were talking about it. Evidently, he was apprehensive that the search for the culprits was getting warm. That was between 11 and 11:30 a.m., a bit too early for the noon meal, and yet he gave the lame excuse that he was going home to eat when he himself said that he had breakfast at 9 o'clock that morning.

It has also been shown that after the defendant Cabrera had confessed to Capt. Espinosa that Adame participated in the crime, Adame talked to Cabrera and thereafter the latter declined to sign his statement. As the Solicitor General observes, Adame was obviously doing all he could to prevent his participation from being discovered.

The pair of maong pants and the scythe wrapped up in them, which were found behind a palay-container in Adame's house and which were admittedly his, bore the tell-tale stains of human blood. The significance of this discovery is in no way weakened by the testimony given by him at the trial, which was obviously intended to convey the impression by way of implication that the stains may have been those of the blood of a wounded rooster which that morning he was asked to fetch from Cabrera's house, especially because he had previously stated to the policeman Antonio Ruiz that the blood had come from a chicken he had butchered. Anyway, it has been scientifically established through chemical analysis conducted by the Chemical and Ballistics Section of the Philippine Constabulary that the stains in question were in fact those of human blood.

Lastly although Adame claims that he has a good income and some property, he also admits that he has not paid his account with the deceased Ang Beng and we also note that he is represented in this appeal by counsel *de officio*. Apparently, he is not well-off as he pretends. Moreover, wealth is not always a badge of good conduct (People vs. Ramos, G.R. No.



L-2171, March 4, 1950), and it is not the poor alone that succumb to the impulse to rob. (People vs. Arnoco, G.R. No. L-3782, August 31, 1951.)

The defendant Maximino Cabrera testified that in the night of April 22, 1950 he was in his house and learned of the incident only in the morning of the following day. But this defendant has signed a written confession, and in confirmation thereof he pleaded guilty at the preliminary investigation. He claimed that the confession was wrung from him through violence. But this is denied by those who investigated him, and it does not appear that previous to the trial he had ever complained to anybody about the alleged maltreatment. Moreover, if it is true that the investigators had used this method of obtaining a confession from him, it is strange that the same method was not also employed to get a confession from Adame. Counsel *de officio* claims that the statement in the confession that Cabrera went to the house of the victims unarmed and had to look for a pair of scissors in the house in order to commit the crime, is unbelievable. But if that be the fact, the statement only goes to prove that the confession was not merely dictated. Anyway, confirmation Cabrera's confession of guilt appears to be written inhuman blood found on the floor and wall of his house and on his GI hunting knife.

The defendant Aniceto Maravillas testified that in the night of the crime he was in the house of one Angel Bocaras at barrio Talontalonan, while the defendant Jacinto Mejio declared that he was then in the house of one Vidal Boncawil in upper Lamitan, those places being 3 1/2 and 3 kilometers, respectively, from the scene of the crime. But their testimony is uncorroborated. The authorities, it will be remembered, came to know about the participation of these defendants when it was revealed by Llagas, and this revelation was proved to be true when, upon being investigated, they voluntarily confessed and their confessions were afterward subscribed and sworn to by them. Their uncorroborated claim that they were coerced into making those confessions is denied, and as in the case of the other defendants, they never complained to anyone before the trial that they had been maltreated. Moreover, their confessions contain exculpatory statements and many details which could have been supplied only by themselves.

To establish an alibi, the defendants Pedro and Pascual Bucol testified that the night in question they were in the house of one Epifania Mahinay; that at about 10 o'clock that evening they were awakened by the barking of dogs and crying of children; and that they peeped through the window but did not hear any more sound, or see anything except the light from a flashlight inside the house of Ang Beng. But the alibi is not impressive. Mahinay's house was not much more than 10 meters from Ang Beng's, and as already noted,

these defendants were pointed to by their co-defendants ,Mejio and Maravillas as the persons to whom they delivered a part of the loot, and upon investigation, they admitted that fact and that they had knowledge as to where the money came from. Their confessions were signed by them and subsequently reiterated when they were investigated by Fiscal Lopez. Though at the trial they claimed that they had been maltreated, the claim is uncorroborated and is also emphatically denied by the investigators.

Anent the appeal of the defendant Legario Llagas, who entered a plea of guilty, it is contended that the aggravating circumstance of armed band should not have been considered against him since not more than 3 of the perpetrators were shown to have been armed, and that there being present the mitigating circumstances of plea of guilty, lack of instruction and passion or obfuscation, which should offset the remaining 3 aggravating circumstances appreciated by the trial court, he should only be sentenced to life imprisonment. It is to be noted, however, that by his plea of guilty, he admitted all the facts alleged in the information, including the 7 aggravating circumstances alleged therein, among them that of the crime having been committed by an armed band; that the alleged lack of instruction cannot be taken into account because the record affords no basis on which to judge his degree of education; and that the claim that he may have acted under obfuscation because Ang Beng refused to give him change for his 20-peso bill the afternoon of that day, cannot be entertained because it was so far removed in point of time he may be considered to have had time enough to recover his normal equanimity. (People vs. Alanguilang, 52 Phil. 663; People vs. Aguinaldo et al., 49 Off. Gaz. 1313.) Since the trial court appreciated 4 of the aggravating circumstances alleged in the information which he pleaded guilty, and only one of those 4 is offset by his plea of guilty, the penalty of death imposed upon him is in accordance with law and should not be disturbed.

As to the defendants Paterio Adame, Maximino Cabrera, Jacinto Mejio and Aniceto Maravillas, while the informations against them allege 7 aggravating circumstances, again the trial court appreciated only 4. Again discounting the aggravating circumstance of armed band, which has not been clearly proved, there are still 3aggravating circumstances left-to be taken into account with nothing to mitigate them. The sentence of death imposed upon them should, therefore, also be affirmed.

With respect to the defendants Pedro and Pascual Bucol, who are guilty only as accessories after the fact, we note that the maximum of the penalty imposed below exceeds by one day that prescribed by law. Correcting this error, as recommended by the Solicitor General, the maximum of the penalty imposed is hereby reduced to 10 years.

Wherefore, with this only modification as to the penalty imposed upon Pedro Bucol and Pascual Bucol, the judgment below is hereby affirmed, with costs.

*Paras, C.J., Montemayor, and Reyes, A., JJ., concur.*

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