

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO ABAYON, ROGELIO VITO AND JOSE AGBAS,
ACCUSED-APPELLANTS.**

G.R. No. L-36754. May 31, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is an automatic review of the judgments of the Court of First Instance of Capiz, Branch III, Mambusao, finding the accused Reynaldo Abayon, Jose Agbas and Rogelio Vito in Criminal Case No. 39 and the accused Jose Juarez, Enrique Agbas and Mariano Aragon in Criminal Case No. 39-A all guilty beyond reasonable doubt as principals in the crime of Murder, and sen-tencing each of them to suffer the extreme penalty of death.

The evidence on record show that on July 15, 1971, a team of P.C. officers and men exhumed the remains of an adult male in an isolated and uninhabited place within Barrio Quinabcaban, Dao, Capiz. The cadaver, when discovered, was already foul-smelling and in an advanced state of decomposition. It was identified by Mrs. Estelita Marcelino Eslamado as that of her husband, Pedro Eslamado.

Dr. Niceas Bediones, M.D., Rural Health Physician of Sigma, Capiz and Officer-In-Charge of the Rural Health Unit of Dao, Capiz, was present during the exhumation and conducted the autopsy on the cadaver. He certified that:

"The victim was buried in a shallow pit, with the body assuming a semireclining position, with the feet much lower than the head, and the knees flexed towards the abdo-men or crouched position.

"Pertinent physical findings: The cada-ver was of average height and of medium build, adult, with the body in a crouched position. It was in a state of decomposition, emitting a foul-smelling offensive odor, with soft tissues in the face dissolved, and big areas of scalp tissues and hair gone. The soft tissues in the trunk and both upper and lower extremities were partly decomposed. All soft tissues were spongy and friable to touch.

"Points of medico legal importance: The corpse was hogtied with a piece of cloth, probably towel, which was applied tightly to the mouth of the victim and tied at the back of the head. Both wrists were tied together behind the body by a shoestring. There was a shallow, linear grooved-like depression running across the middle of right arm, measuring not more than 0.5 cm. across and 0.5 cm. deep, which might have been caused by the impression of some kind of cord tie.

"Probable cause of death: It was dif-ficult to ascertain the exact cause of death due to the decomposition going on the body but logical to assume that it was due to some form of physical violence in-flicted for sometime."[1]

Prior to the discovery of the corpse, or on June 21, 1971, Sgt. Josefino Cantiller of the 311th P.C. Company stationed at Loctugan Hills, Roxas City had filed a criminal complaint for the kidnapping of Pedro Eslamado upon the complaint of Mrs. Eslamado that her husband had been abducted by several men on June 14, 1971. Named as accused in the complaint were Reynaldo Abayon, Rogelio Vito, Jose Agbas, Emperatriz Borja and two John

Does.[2] After the dead body of the victim had been unearthed, Sgt. Cantiller moved to amend the complaint from Kidnap-ping to Kidnapping with Murder, naming Herman Abayon, Mariano Aragon, Roberto Barrera, Romeo Acorio, Jose Juarez and Enrique Agbas as additional accused.[3] It was also alleged in the Motion that the two John Does in the original complaint had been identified as Alexander Rebosora alias Alex Balbastro, and alias Joe.[4] The Motion was granted and the Amended Complaint was admitted.[5] On September 11, 1971, Criminal Case No. 39 was commenced in the lower Court with an Information for Kidnapping with Murder reading thus:

"That on or about the 14th day of June, 1971, in the municipality of Sigma, province of Capiz, Philippines, and within the juris-diction of this Court, the said accused in company with Alexander Rebosora, alias Alex Balbastro and Joe Doe, the latter's real name being unknown, who are still at-large, armed with automatic carbine, pistol cal. 45, homemade shotguns locally known as 'pogakhang', fighting bolos and hunting knife, conspiring, confederating, mutually helping one another and acting in common accord, upon the inducement and promise of reward in the sum of P500.00, by one of the accused Emperatriz Borja and taking advantage of nighttime and simulating themselves as public authorities in order to better facilitate the commission of the offense, enter the house of one Pedro Eslamado and once inside and without provocation of the latter, did then and there by means of violence, intimidation and craft, wilfully, unlawfully and feloniously kidnap, detain or otherwise deprive Pedro Eslamado of his liberty for the purpose of bringing him to barrio Quinabcaban, Dao, Capiz, and once kidnapped, detained or otherwise de-prive of his liberty, the said accused, while on the way and acting in accordance with the conspiracy and with mutual assistance and cooperation among them-selves, did then and there with evident premeditation and treachery, wilfully, unlawfully and feloniously with abuse of superior strength, assault, attack, stab and bolo the said Pedro Esmalado (sic) thereby inflicting upon him several mortal wounds which caused his instantaneous death x x x." [6]

When arraigned on October 28, 1971, all the afore-mentioned accused pleaded not guilty to the charges in the Information.[7] Before the case could proceed to trial, however, counsels for accused Enrique Agbas, Jose Juarez and Mariano Aragon moved that a separate trial be held with respect to their clients, citing their reasons therefor.[8] By its Order of March 20, 1972, the trial court granted the motion, "finding the same to be justified and reasonable under the circumstances, in order to give full protection to the rights of the respective accused." [9] Thus, the said three accused were tried under Criminal Case No. 39-A.

Meanwhile, in Criminal Case No. 39, after the widow, Mrs. Estelita Eslamado, had concluded her testimony, the fiscal filed a written motion to dismiss [10] the case with respect to the accused Romeo Acorio and Roberto Barrera for lack of evidence. The motion was granted by the lower Court in its Order of March 22, 1972. [11] Trial, therefore, continued in said case only with respect to the remaining accused Jose Agbas, Rogelio Vito, Reynaldo Abayon, Herman Abayon and Emperatriz Borja.

The prosecution's version in both cases, as may be gleaned from the testimony of the victim's widow, is substantially related in the lower Court's decision in Criminal Case No. 39, to wit:

"Previous to the incident, Pedro Eslamado was a tenant of a parcel of land belonging to Hugo Durana over which Emperatriz Borja had been claiming ownership. On June 7, 1971 (should be June 14, 1971 per t.s.n., p. 27, March 20, 1972), Emperatriz Borja told Pedro Eslamado that if he would insist in farming this disputed property he would be arrested by her lawyer. Pedro Eslamado answered that it was up to her and he would just answer her lawyer.

"On the evening of June 14, 1971, while Pedro Eslamado and his wife were inside their house in Bo. Cogon, Sigma, Capiz, somebody called, 'Pedro, Pedro, open the door for us, don't be afraid, we're members of the Philippine Constabulary.' The wife of Pedro Eslamado stood up and lighted a homemade wick lamp, but then she found out that Mariano Aragon and Jose Juarez were already inside the house. They had entered through their door which was made of reeds and just tied with a rope and not fastened so that a person could enter the house by pushing it. Mariano Aragon and Jose Juarez ordered them to kneel and they asked them if they had

any homemade shotgun. They answered that they had none. These two men then held Pedro Eslamado at both sides of his collar and below his armpits and dragged him out of the house. The wife of Pedro Eslamado gave him the lamp because she was afraid he might fall. (She) followed them out, but downstairs she was blocked by Rogelio Vito, Reynaldo Abayon and Jose Agbas and they pointed their homemade shotguns at her and told her to go upstairs. She did not however mind them, and she continued to follow them without their knowledge while they were dragging her husband away towards the field. At a distance near the rice dike these men put out the lamp. She there-after ran towards the house of their land-lord, Hugo Durana, and told him about this incident. The following morning she went to the poblacion of Sigma, Capiz and asked policeman Ordanoso if her husband was brought to him by the P.C., and since she could not get any positive answer she went to the P.C. headquarters in Loctugan Hills, Roxas City to report this incident."[12]

The evidence of the government further reveal that in the morning of July 14, 1971, while appellant Mariano Aragon was being investigated at the P.C. Headquarters at Loctugan Hills, Roxas City by Sgt. Alfredo Gardonio, Chief Intelligence Investigator of the 311th P.C. Com-pany for the purpose of gathering information on the alleged existence of the NPA or New People's Army at Quinabcaban, Dao, Capiz, Aragon revealed that he was with the group that kidnapped and killed Pedro Eslamado and that the group was headed by one, Alexander Rebosora. Aragon likewise revealed where they allegedly buried the victim. Aragon's statement as taken by Sgt. Gardonio is marked in evidence as Exhibit "G", and its translation in English as Exhibit "H".[13]

Two days later, or on July 16, 1971, Sgt. Gardonio investigated and took the statement of appellant Reynaldo Abayon at the office of the Chief of Police of Dao, Capiz. Again, the main purpose of the investigation, according to Sgt. Gardonio, was in connection with the NPA activi-ties in the area inasmuch as Reynaldo Abayon was suspected as being a member of the NPA. Abayon also disclosed his participation in the abduction and killing of Pedro Esla-mado in the course of the interrogation. His statement is attached to the record as Exhibit "F", and its English translation as Exhibit "G".[14]

With respect to the accused Enrique Agbas and Jose Juarez, their complicity in the kidnapping and murder of Pedro Eslamado was disclosed when Sgt. Josefino Cantiller, also of the 311th P.C. Company, took the statements of the two accused on July 22 and 23, 1971, respectively, wherein both appellants confessed their participation, Jose Juarez admitting having been one of those who stabbed the victim in the stomach with a hunting knife. The state-ments are marked as Exhibits "D" and "D-2" (English trans-lation) for Enrique Agbas, and Exhibits "B" and "B-1" (English translation) for Jose Juarez.[15]

At the trial of Criminal Case No. 39, the accused interposed denials and the defense of alibi, thus:

The accused Jose Agbas claimed that on the night of the incident in question, his wife Presentacion gave birth to their seventh child who was later registered with the Local Civil Registrar as Jose Agbas, Jr. The midwife arrived at about 4:30 o'clock in the afternoon of June 14, 1971 and the baby was delivered at about 10:30 o'clock in the evening of that same day. Agbas declared that he never left the house after the delivery of the child because he had to take care of the other small children, prepare food and attend to his usual chores.[16]

Salvacion Juarez, testifying for her nephew, the accused Jose Agbas, stated that she was the midwife who assisted in the delivery of the latter's wife Presentacion on June 14, 1971. She averred that the said accused fetched her at her house at about 4:00 o'clock in the afternoon on that day and Presentation gave birth at about 10:00 o'clock in the evening. Thereafter, Jose Agbas served supper, cleaned the place where his wife delivered and washed the dishes. Salvacion herself slept at 2:00 o'clock in the morning already because she was observing the condition of Presentacion and the new-born infant. It was 7:00 o'clock the following morning that she left for home. During all the time that she stayed in the house of the Agbas spouses, Salvacion stated that accused Jose Agbas never left the place. It was only in the morning of the day after his wife delivered that he left his house to go to a nearby creek

to wash the dirty clothes.[17]

Accused Rogelio Vito denied any knowledge of the kidnapping of Pedro Eslamado. He testified though that he knew Hugo Durana, Pedro Eslamado's supposed landlord, and he had the occasion to talk with said Hugo Durana after June 14, 1971. Vito related that one morning at about 9:00 o'clock while he was plowing the farm of his mother-in-law and co-accused Emperatriz Borja, Hugo Durana approached him and told him to leave the farm and stop working thereon, otherwise he would be included as one of the accused in this criminal case.[18]

Accused Reynaldo Abayon, son of accused Emperatriz Borja, denied his alleged participation in the kidnapping and killing of his first cousin Pedro Eslamado. He claimed that he was in his house at Bo. Cogon, Sigma, Capiz when the alleged incident happened. Confronted with Exhibit "F" which purports to be his extrajudicial confession, Abayon admitted having signed an affidavit but alleged that he was compelled to do so only after he was manhandled by P.C. soldiers. He narrated that about two weeks before August 2, 1971, he was taken by PC soldiers from the municipal building of Sigma, Capiz where he was confined in jail and brought to the house of Hugo Durana at Bo. Balucuan, Dao, Capiz where he was investigated and maltreated, with Hugo Durana taking the lead in beating him up. From there he was brought to the house of the deceased Pedro Eslamado and to the place where the latter was supposed to have been buried, and he (Abayon) and his companions Juarez and Aragon were made to pose while pictures were taken of a supposed reenactment of what was done to Pedro Eslamado. In both places, he was maltreated by the PC who also threatened to kill him. He was "boxed on the stomach and beaten by the butt of (a) carbine on (his) side, and bullets were inserted between (his) forefingers and middle finger and pressed hard with both hands and pulled upward and (his) moustache was burned by a cigarette." Two weeks later, he was again taken from the municipal building and then brought to the PC Headquarters at Loctugan Hills, Roxas City where he was subjected to further maltreatment. He claimed that he could no longer endure the pain being inflicted on him so he signed an affidavit, now Exhibit "F", which was already typewritten when it was shown to him. While he signed, a certain Gorgonio was holding his hand. Abayon further alleged that he informed provincial jail guards Burgos, Apercho, Loyola, Julian Yap and Antonio David of his maltreatment by the P.C. He, however, did not request to be examined by a doctor because although he sustained bruises, his injuries were not serious. Instead, he had himself massaged by someone inside the jail. Abayon showed scars on the forehead and upper lip allegedly caused by his maltreatment.[19]

Accused Herman Abayon, also a son of accused Emperatriz Borja, simply declared in Court that he was at home in the evening of June 14, 1971 and that he did not know of any land dispute between his mother and Hugo Durana.[20]

The accused Emperatriz Borja testified that there was no misunderstanding or altercation between her and her nephew Pedro Eslamado. With regard to Enrique Agbas, her former co-accused in Criminal Case No. 39 (then tried under Criminal Case No. 39-A), Emperatriz claimed that before June 14, 1971, a case had been filed against said Agbas for rape committed against her daughter, and since then, she had not seen Agbas because the latter went away.[21]

Both Herman Abayon and Emperatriz Borja were not cross-examined by the Fiscal.

In Criminal Case No. 39-A, from the evidence of the three accused Enrique Agbas, Mariano Aragon and Jose Juarez, the following appear to have transpired:

Sometime in July, 1971, Enrique Agbas was apprehended by PC soldier Vito Fariñas at Bo. Sta. Rita, Dumalag, Capiz where he ran away after he was charged with the rape of Lucia Abayon at Bo. Cogon, Sigma, Capiz. He was brought to the municipal building of Dumalag and was interrogated concerning the whereabouts of "Indo" (Pedro Eslamado), and when he disclaimed any knowledge, he was boxed by the PC soldiers. Interrogation was

resumed in the house of Hugo Durana at Bo. Balucuan, Dao, Capiz where the PC soldiers brought the accused Agbas inside a room, choked him and showed him a piece of paper with a list of names. Durana asked him to point out the names of those in the list who killed Pedro Eslamado, and promised that he would be helped in his rape case. Durana threatened to kill him if he did not do what he was told.

In the early morning of July 13, 1971, Agbas was handcuffed and brought to the house of Mariano Aragon at Bo. Quinabcaban, Dao, Capiz by eight (8) PC soldiers, four of whom were Berraña, Paclibar, Diestro and Marfil. The accused Jose Juarez was there when the group arrived. Aragon and Juarez were asked the whereabouts of Pedro Eslamado and when they replied that they did not know, they were manhandled by the soldiers.

Describing in detail how he was maltreated, Aragon declared that when he answered for the second time that he did not know the whereabouts of Pedro Eslamado, he was boxed by Berraña, hitting him on his stomach which felled him to the ground and while he was on the ground, Paclibar kicked him, and that when he was brought upstairs he was asked the same question to which he answered in the negative and the PC slapped him on both ears.[22]

The accused Jose Juarez likewise narrated how he was investigated and maltreated by P.C. soldier Diestro who boxed him in the stomach, chopped him with a karate blow on his hips which caused him to fall down; he was held by the shirt and pushed towards the banana plants and boxed several times by Diestro at his breast and sides. He was also maltreated by P.C. soldier Marfil by slapping his sides.[23]

Thereafter, the three accused, Aragon, Juarez and Agbas were brought by the soldiers to the house of the barrio captain of Quinabcaban, Mr. Bernabe Escalada, where they all had lunch. The accused were told that they were going to be brought to the town of Dao, but upon reaching the boundary of barrios Quinabcaban and Cogon, they met Hugo Durana who asked Juarez about Pedro Eslamado. When Juarez answered that he did not know, Durana boxed him in the stomach, then pushed Agbas and told him to look in the forest. The accused were made to go around the forest and after a long search, Agbas found a fresh mound of earth located within Durana's property. Durana said, "That is the one," and placed a marking stick on the mound. They all left without examining the mound and the accused were brought to the municipal building of Dao. Later they boarded a train bound for Loctugan Hills.

Accused Enrique Agbas testified that at the P.C. Headquarters in Loctugan Hills, Roxas City, he was mal-treated because he refused to sign "that piece of paper which (he) does not know the contents as (he) does not know how to read"; that he was boxed and slapped at the side of his body and the ears; that the contents of Exhibit "D" wherein he allegedly admitted that he was one of those who kidnapped and killed Pedro Eslamado in the evening of June 14, 1971 and implicated his co-accused Mariano Aragon, Alexander Reboresora alias Alex Balbastro, Alias Joe, Rogelio Vito, Romeo Acorio, Jose Agbas, Jose Juarez, Reynaldo Abayon, Herman Abayon and Roberto Barrera, as well as the contents of Exhibit "D-1" wherein it was made to appear that Emperatriz Borja planned the killing and kidnapping of Pedro Eslamado, are not true; and, that Exhibit "D" was not read to him and he just affixed his signature thereon.[24]

The accused Mariano Aragon likewise related the manner of his maltreatment at the hands of the P.C. investigators in the following manner:

"Q - While you were at the PC headquarters, what happened?

A - When we were about to reach the PC head-quarters, a PC soldier in white T-shirt met us and boxed us.

Q - Were you hit when you were boxed by the PC soldier?

A - Yes, sir, I was hit on the stomach.

Q - After that, where did you go?

A - I was brought to a building where I was tied on both arms.

x x x

Q - Enrique Agbas was also with you when you were brought to that building?

A - No, sir, I was alone when I was brought to the building.

Q - You said your both hands were tied, with what material x x x?

A - My both arms were tied with a chain and padlock.

Q - Towards what direction were your hands being padlocked?

A - I was laid flat face up in bed and both my arms were tied with a chain and pad-locked attached to the bed.

Q - While you were padlocked on the bed, was there anything that happened?

A - When I could no longer endure the laying position since I was tied tightly, I requested the PC soldier to loosen it because I was feeling cold and the PC soldier consented.

Q - What else happened?

A - After a short while, Monteroso arrived and ordered the guard to release me so that he would run after me to shoot me. When I heard that, I cried, I was then investigated by Monteroso.

Q - While you were investigated by Monteroso, was there anything done to you?

A - While I was investigated by Monteroso, he kicked me, hitting me on both legs which caused bruises. After that, I knelt down and asked for mercy saying 'Please, have mercy on me, I have not done anything wrong.' Then I was ordered to stand up and to jog.

Q - How long did you jog upon being ordered by Monteroso?

A - I jogged for a long, long time until I perspired and when I could no longer sustain the jogging, I sat on the floor.

Q - What else happened after that?

A - I was ordered again to jog because according to him, I could not sustain the maltreatment, so it is better that I jog. Again, I asked for mercy to stop jogging and he consented that I sit on the bed and once again, I was chained.

Q - You said that you were chained, in the same position as Monteroso maltreated you?

A - I was chained in a sideways position.

Q - How long did you stay in a sideways position?

A - I was chained in that position until the next morning.

Q - On that evening of July 13, 1971, were you able to have your dinner?

A - No, sir.

Q - The next day, what else happened?

A - The following morning, I bought a P.20 pan de sal because I was hungry.

Q - After you have taken your breakfast with that P.20 pan de sal, were you taken to some other place?

A - I was brought to the office of Suguilon.

Q - What happened while you were in the of-fice of Suguilon?

A - Suguilon confirmed that we were the ones who killed Pedro Eslamado and when I heard that, I denied the statement, that I do not know about it.

Q - When you answered that way to Suguilon, was there anything that happened?

A - I was boxed by Suguilon and he said that I was a liar.

Q - You said you were boxed, were you hit by Suguilon?

A - Yes, sir, I was hit on the stomach.

Q - How many times did Suguilon box you in his office that time?

A - I was boxed twice.

x x x

Q - Showing to you this affidavit which has already been marked as Exhibit "G" Juarez, was this the statement taken by Suguilon?

A - Yes, sir.

Q - Is this your signature appearing at the bottom of Exhibit "G" and marked as Exhibit "G-1" Juarez?

A - That is my signature which was against my will.

Q - Before you signed this affidavit, Exhibit "G" Juarez, was there anything done to you by Suguilon?

A - Yes, sir.

Q - What was that?

A - The first time that I refused to sign Exhibit "G", Suguilon pulled his gun and struck me on my head and said pointing the gun at me which I quote, 'If you will not sign this, something will happen to you.'

Q - Before you signed this Exhibit "G", was this read to you?

A - No, sir.

Q - Did you read this before affixing your signature?

A - No, sir."

(On Cross-Examination)

"Q - This Monteroso is also a PC soldier?

A - Yes, sir.

Q - Do you know what was his rank that time?

A - Yes, sir.

Q - What was the rank of Monteroso?

A - He was a lieutenant that time.

x x x

Q - You said that you were brought at the office of Suguilon, is this a PC soldier also?

A - Yes, sir.

Q - What was his rank, do you know?

A - He was a captain.

x x x

Q - And when Suguilon investigated you, he asked only one question whether you were accused of being one of those who killed Pedro Eslamado, am I right?

A - I was made to mention the names of per-sons previously identified by Enrique Agbas and he brought me to the room where I was tied on both hands and he struck me with a piece of wood in my buttocks and he asked me to follow or repeat the names of persons mentioned by Enrique Agbas.

x x x

Q - And you said that after that statement was reduced in writing, you were made to sign it but you refused so, Capt. Suguilon hit you on the head with his gun, what part of your head was hit by the gun?

A - I was hit by the gun on both sides of my head.

Q - How many times were you struck with the gun?

A - I was hit twice with the gun of Suguilon.

Q - Could you tell this Hon. Court what kind of gun was used in hitting you on the head?

A - It was an automatic gun with a magazine.

Q - That is the service pistol of the PC, am I right?

A - Yes, sir.

Q - Do you know what part of that gun hit you on your head?

A - The barrel of the gun.

Q - And could you tell the force or impact which the gun caused when it was struck on your head?

A - I felt it very painful when it hit me.

Q - Did you also suffer injuries on the act of Capt. Suguilon by hitting you with his gun?

A - I suffered only bruises but there was no wound."^[25]

The accused Jose Juarez similarly described how he was maltreated. He said that when they were about to reach the PC headquarters, a man in a white T-shirt approached them and boxed him hitting him at the stomach for three times; that Capt. Suguilon investigated him as to where he (the accused) brought the victim, Pedro Eslamado, and that when he answered that he did not know, Suguilon boxed him on the stomach and pointed a knife at him and told him, "You were the one who killed Pedro Eslamado." Juarez answered he did not know and thereupon, Suguilon held the former's arm pretending to cut the arm and ordered another soldier to get a cup where the blood was supposed to drop. He was ordered to sign a piece of paper and when he would not because he did not know

what it was all about, he was suspended in a wooden bar and hit with the wood at the back of his body. Later, he was ordered to hold the edge of a table leaning forward with stretched arms and was hit again with a piece of wood at the buttocks twice. Then, he was brought outside the room and ordered to sign a piece of paper which was type-written and he signed the same without it being read or explained to him before affixing his signature. He also denied having killed Pedro Eslamado.[26]

The accused rested their case on December 13, 1972. Upon manifestation of the Fiscal that he was going to present the PC officers and soldiers mentioned by the accused as rebuttal witnesses, the Court below set the case for continuation of trial on January 11 and 12, 1973.[27]

The rebuttal witnesses, however, failed to appear on the first scheduled hearing date. Consequently, the trial Court terminated the case and considered it sub-mitted for decision on January 11, 1973.[28]

In Criminal Case No. 39, the trial Court rendered a decision dated January 24, 1973, the dispositive portion of which reads:

"WHEREFORE, this court finds Reynaldo Abayon, Jose Agbas and Rogelio Vito guilty beyond reasonable doubt as principals in the crime of murder, and judgment is hereby rendered imposing upon each of the said accused the penalty of DEATH; to pay jointly and solidarily the heirs of Pedro Eslamado the sum of P12,000.00, with costs.

"The prosecution not having established the guilt of Emperatriz Borja and Herman Abayon beyond reasonable doubt, judgment is hereby rendered acquitting all said accused of the charge in the information, without costs, and their immediate release from pre-ventive imprisonment is ordered.

"SO ORDERED."[29]

and in Criminal Case No. 39-A in a decision dated January 26, 1973, the lower Court held:

"WHEREFORE, this court finds Jose Juarez, Enrique Agbas and Mariano Aragon guilty beyond reasonable doubt as principals in the commission of the crime of murder, and judgment is hereby rendered imposing upon each of them the penalty of DEATH; to pay jointly and solidarily the heirs of Pedro Eslamado the sum of P12,000.00, with costs.

"SO ORDERED."[30]

We reverse the finding of guilt.

In making the pronouncement of guilt and sentencing herein appellants to the capital penalty of death, the trial Court relied heavily and primarily on Exhibit "G" in Criminal Case No. 39-A, Exhibits "F", "D" and "B" in Criminal Case No. 39, purporting to be the extrajudicial confessions of Mariano Aragon, Reynaldo Abayon, Enrique Agbas and Jose Juarez, respectively, all of which have been repudiated by the supposed declarants on the ground of involuntariness, the same having been extorted by threats, violence and intimidation.

Pursuant to Section 29, Rule 130 of the Rules of Court, "(t)he declaration of an accused expressly acknowledging his guilt of the offense charged, may be given as evidence against him." Such a confession is not only admissible in evidence but also it is presumed to be voluntary until the contrary is shown.[31] Thus, in the recent case of *People vs. Castañeda, et al.*, L-32625, August 31, 1979, 93 SCRA 56, We held:

"x x x Extrajudicial confessions of the accused in a criminal case are universally recognized as admissible evidence against him, and this rule is based on the presumption that no one would declare anything against himself unless such declarations were true. Accordingly, it has been held that a confession constitutes an evidence of a high order since it is supported by the strong presumption that no person of normal mind would

deliberately and knowingly confess to a crime unless prompted by truth and his conscience. Hence, the pre-sumption of the law is in favor of the spontaneity and voluntariness of the state-ment given by an accused, and it is incumbent upon him to destroy that presumption."

On the other hand, "(t)he (extrajudicial) confession to serve as a basis for conviction must inspire credibi-lity." [32] We have also repeatedly admonished the trial courts to resort to the most painstaking scrutiny in weighing evidence relating to alleged voluntary confessions of the accused and to be slow to accept confessions unless they are corroborated by other testimony, [33] more so when they are subsequently disputed, [34] the reason being that "experience has shown that some law officers are not above extorting confessions through violence and intimidation." [35]

The first question for Us to resolve is whether the defense has successfully overthrown the presumption in favor of the voluntariness of the extrajudicial confes-sions in the case at bar. We hold in the affirmative, and find, after a careful examination and scrutiny of the confessions in the light of certain peculiar facts and circumstances obtaining in the instant case, as will hereinafter be discussed, that there are reasonably sufficient doubts on the voluntariness of the confessions to render them inadmissible as evidence upon which to base the conviction of the supposed confessants.

It is a settled rule that where an alleged confession contains details and is replete with facts which could have possibly been supplied only by the perpetrator of the crime, and could not have been known to or invented by the investigators, the confession is considered to have been voluntarily given. [36] This rule, however, was erro-neously applied by the trial court in the cases at bar.

The facts and details contained in at least three of the confessions, those of Reynaldo Abayon, Mariano Aragon and Jose Juarez, were already known to the PC investigators at the time the statements were allegedly signed by the said accused-appellants. The three confessions referred to all appear to have been executed after the body of the deceased Pedro Eslamado had been exhumed by the PC team on July 15, 1971. Abayon's statement is dated July 16, Aragon's statement, July 22, and Juarez' statement, July 23, 1971. On those dates, the PC would have known details and facts such as, that Pedro Eslamado was abducted and killed, where his remains were buried, that he was tied around the mouth by towels, that his hands were tied with shoe strings, all of which were stated in the confessions.

The probable motive, and the alleged instigation by Emperatriz Borja because she was personally interested in the land then being tilled by Pedro Eslamado, were matters already supplied by the victim's widow herself, Mrs. Estelita Eslamado, when she reported the abduction of her husband to the PC. The records show that on June 19, 1971, she executed a statement [37] in the PC headquarters declaring, among others, that on June 7, 1971, at about 12 o'clock noon, Emperatriz Borja went to their house and threatened to have Pedro Eslamado kidnapped if he continued working on the land which he was then farming. Mrs. Eslamado added in her statement that Emperatriz Borja was claiming ownership over the land in question.

As a matter of fact, from the manner of questioning pursued in Abayon's statement, Exhibit "F", it is clear that the investigator was already aware of, as indeed he had assumed, the existence of certain facts. For ins-tance, Abayon was asked, "Who buried Pedro Eslamado after he was killed?" despite the lack of any previous statement to the effect that the victim was buried. Again, the question "Why were the hands of Pedro Eslamado tied and also his mouth?" already assumes that the hands and mouth of the victim were tied, yet the extrajudicial confession shows that Abayon had not previously made a statement to that effect.

The fourth confession (Exhibit "H") alleged by the prosecution to have been freely executed by appellant Mariano Aragon, on its fact really purports to have been accomplished on July 14, 1971, or one (1) day before the cadaver

of Pedro Eslamado was supposed to have been exhumed. However, there likewise appears a strong possibility that the corpse and place of its burial had been discovered prior to the actual exhumation claimed to have been conducted on July 15, 1971. Mariano Aragon's confession, translated into English, commences as follows:

"Q - Why are you here now in the office of the PC at Loctugan Hills, Roxas City?

A - Because of the killing of Pedro Esla-mado at Bo, Quinabcaban, Dao, Capiz, at 9:00 (o'clock) in the evening of June, 1971 of which I could not recall.

Q - For what reason did you kill Pedro Eslamado?

A - Because Emperatriz Borja ordered us to x x x."[38]

Aragon was, therefore, apprehended and interrogated in connection with the killing of Pedro Eslamado. In other words, as early as July 14, 1971, the date of Aragon's supposed confession, or even on July 13, 1971, the date of his apprehension by the PC, the authorities already knew that Pedro Eslamado had been killed. This is significant considering that up to the time that Aragon was alleged to have made his confession, there was allegedly no news yet of what had happened to Pedro Eslamado after he was forcibly taken from his residence on June 14, 1971 until the exhumation of his remains on July 15, 1971.

Moreover, there is evidence for the prosecution that the exhumation was conducted on July 14, 1971. Prosecution witness Mrs. Eslamado testified in the two cases (Criminal Cases Nos. 39 and 39-A) that the PC conducted the exhumation, and she was made to identify the corpse of her husband, on July 14, 1971.[39]

Contrary to the observations of the trial Court,[40] the extrajudicial confessions of the accused, particularly those of Enrique Agbas and Jose Juarez, do not reveal spontaneity in the narration of facts and circumstances in the commission of the crime. Carefully examining the statements of the said accused-appellants and comparing them with each other, We note that the contents are almost identical, giving the impression that the questions as well as the answers were prepared by only one person.[41] This circumstance supports the said appellants' claims or involuntariness in the execution of their confessions. For instance, Enrique Agbas' confession which is dated July 22, 1971 contains the following questions and answers:

"Q - Can you tell this investigator who your companions were in kidnapping Pedro Eslamado?

A - Alexander Rebosora, Alias Alex Balbastro, Alias Joe, Mariano Aragon, Jose Juarez, Reynaldo Abayon, Herman Abayon, Romeo Acorio, Rogelio Vito, Roberto Barrera, Jose Agbas and myself.

Q - What arms were you carrying when you kidnapped Pedro Eslamado?

A - All of them were armed except myself. Alexander Rebosora with a .45 caliber pistol, Alias Joe with a carbine, Mariano Aragon with a shotgun (pugak-hang), Herman Abayon with a fighting bolo (talibong), Roberto Barrera with a fighting bolo, Roberto (should be Romeo) Acorio with a fighting bolo, and Jose Agbas with a fighting bolo.

Q - You said that Pedro Eslamado was killed by your companions, who of them killed him?

A - It was Alexander Rebosora who first stabbed Pedro Eslamado at the right breast with a hunting knife; then Alias Joe got the knife from Alex and stabbed Pedro Eslamado in the stomach using the same knife, Jose Juarez stabbed the vic-tim in the stomach; likewise Mariano Aragon using the same knife also stabbed Pedro Eslamado in the stomach which caused the victim to slowly fall to the ground. After which, Reynaldo Abayon cut the neck of Pedro Eslamado with his fighting bolo and then they put out the torch they used for lighting.

x x x x x x x x

Q - Do you know the respective addresses of your companions?

A - Alexander Rebosora Alias Alex Balbastro I heard is from Jintotolo, Masbate; Alias Joe is from Iloilo; Mariano Aragon, Jose Juarez, Roberto Barrera and Jose Agbas are from Bo. Quinabcaban, Dao, Capiz, while Herman Abayon, Reynaldo Abayon, Rogelio Vito are from Bo. Cogon, Sigma, Capiz and Romeo Acorio is from Bo. San Miguel, Dumalag, Capiz."[42]

And in Jose Juarez' signed confession dated July 23, 1971, the following appears:

"Q - Can you tell us the names of your companions?

A - Yes, sir, they were Alexander Rebosora, Alias Alex Balbastro, Alias Jose, Mariano Aragon, Reynaldo Abayon, Herman Abayon, Romeo Acorio, Rogelio Vito, Roberto Barrera, Jose Agbas, Enrique Agbas and myself.

Q - Do you (know) where Alexander Rebosora, Mariano Aragon, Alias Joe, Reynaldo Abayon, Rogelio Vito, Herman Abayon, Roberto Barrera, Jose Agbas, and Enrique Agbas are residing?

A - Yes, sir, Alexander Rebosora, Alias Alex Balbastro is from Jintotolo, Masbate; Alias Joe is from Iloilo; Mariano Aragon, Jose Agbas, Roberto Barrera, Enrique Agbas are from Bo. Quinabcaban, Dao, Capiz and Romeo Acorio is from San Miguel, Dumalag, Capiz.

Q - Who were your companions that kidnapped Pedro Eslamado and who killed him?

A - Alexander Rebosora, Alias Joe, Mariano Aragon, Reynaldo Abayon, Herman Abayon, Romeo Acorio, Rogelio Vito, Roberto Barrera, Jose Agbas, Enrique Agbas and myself. Those who killed Pedro Eslamado by means of stabbing are the following: Alexander Rebosora, was the first to stab him with a hunting knife and hit Pedro Eslamado at his right breast; then Alias Joe got the knife and stabbed Pedro Eslamado at the stomach; and I got the knife from Joe and stabbed Pedro Eslamado at the stomach; then Mariano got the knife and stabbed Pedro Eslamado at the stomach and when he was about to fall, he was beheaded by means of a fighting bolo and he died.

x x x x x x x x

Q - What arms did you carry when you kidnapped and killed Pedro Eslamado?

A - Alexander Rebosora carried a .45 caliber pistol and a hunting knife; Alias Joe carried an automatic carbine; Mariano Aragon carried a homemade shotgun (pugak-hang); I was carrying a homemade revolver (pugakhang); Herman Abayon and Reynaldo Abayon carried fighting bolos, Romeo Acorio carried a fighting bolo and a sling shot; Rogelio Vito, Roberto Barrera, Jose Agbas, and Enrique Agbas carried fighting bolos."[43]

The striking similarity between the contents and wordings of the two confessions as may be gleaned from the above-quoted portions thereof to the extent that even the sequence of names and facts mentioned and events narrated in the answers is almost the same, can hardly escape notice. This circumstance clearly militates and weighs heavily against the findings of the trial Court that the confessions were spontaneous and executed voluntarily.

It further appears from the records that prior to the execution by accused Enrique Agbas of his confession, denominated "Supplementary Statement" and dated July 22, 1971, he had already signed another statement which is dated July 14, 1971.[44] In the earlier-dated declaration, however, said Agbas merely confessed to having participated in the kidnapping of Pedro Eslamado, claiming that when he left the house of Mariano Aragon where Eslamado was brought, the latter was still alive. The lower Court failed to note or did not attach any significance to the fact that no explanation was given as to why eight (8) days after the execution of the first statement, during

which period accused Agbas was admittedly in the custody of the PC, he changed his mind and confessed to the crime of murder.

With regards to Jose Juarez' confession,[45] al-though the same is also denominated "Supplementary State-ment", the prior or original statement was not offered in evidence. Neither was such statement, which obviously should have been taken down first, referred to or even mentioned in the so-called "Supplementary Statement" of Juarez. Nevertheless, forming part of the record is a typewritten declaration in question and answer form, purporting to be a confession to the crimes of kidnapping and murder of Pedro Eslamado entitled "Statement of Jose Juarez" and dated July 14, 1971.[46] The bottom thereof, however, is unsigned by the supposed declarant Jose Juarez. Prosecution witness PC Sgt. Alfredo Gardonio tes-tified that he was the one who took down this statement but left the same unfinished because he turned over the investigation of the case to Sgt. Cantiller.[47] But Sgt. Cantiller did not return from his other mission until after a week from the time the unfinished statement of Juarez was alleged to have been taken by Sgt. Gardonio on July 14, 1971. There was, therefore, no urgent or valid reason for the latter to postpone the completion of the statement which he allegedly took of Juarez. It would not be farfetched nor totally unreasonable to surmise, on the other hand, that on July 14, 1971 the statement was prepared and typed, but Juarez refused to affix his signature thereto. Nine (9) days later though, it would appear that he changed his mind and signed a statement of similar tenor, now in evidence as Exhibit "B". The long duration of detention, to Our mind, increased the possibility of the effective use of duress.

The prosecution's explanations on the delay in the taking of the statements of the two accused Enrique Agbas and Jose Juarez are feeble and deserve scant con-sideration. Sgt. Cantiller admitted that Agbas was picked up on July 13, 1971 while Juarez was picked up on July 14, 1971,[48] or more than one week before their respective confessions were taken. He alleged that he could not conduct the investigation on the detained accused because for a month from June 21 to July 21, 1971, he was on another mission. This is a very lame excuse indeed, as pointed out by counsel for the said appellants. Even the trial judge noticed that this wit-ness was trying to evade answering the cross-examination questions propounded to him on the matter of the delay in the investigation.[49] Sgt. Cantiller's account of what really happened is decidedly vague and even incon-sistent. On the one hand, he claims that the investigation was put off because he was preoccupied with another mission and the office was waiting for him to conduct the investigation because it was only he who could amend the original complaint from kidnapping to kidnapping with murder, as he was the one who filed the same.[50] But the amendment of the original complaint had nothing to do with the investigation of the detainees who, it should be stressed, were then being deprived of their liberty. Surely, the other personnel left in the PC headquarters could have conducted the necessary in-vestigations, and, for that matter, even the filing of the amended complaint could have been caused by some other authorized personnel. On the other hand, Sgt. Cantiller likewise claims that investigation of the detained accused had in fact been conducted by a Capt. Ricardo Suguilon who informed him upon his return from his other mission that the accused had already confessed, not only to the killing of Pedro Eslamado but also of a certain Patrolman Reynaldo Parcon,[51] which claim appears to be incredible since Capt. Suguilon had not secured the written and signed confessions from the accused on the alleged admissions.

Comparing the written statements of appellants Enrique Agbas and Jose Juarez (Exhibits "D" and "B") which are almost parallel in content, there are several inconsistent and irreconcilable statements between the said two confessions and that alleged to have volunta-rily executed by appellant Reynaldo Abayon (Exhibit "F") supposedly taken by Sgt. Gardonio. For instance, it is alleged in Exhibits "D" and "B" that eleven (11) persons were present and/or participated in the actual abduction, killing and burial of the late Pedro Eslamado, naming them as Alexander Rebosora, Alias Alex Balbastro, an Alias Joe, Mariano Aragon, Reynaldo Abayon, Herman Abayon, Romeo Acorio, Rogelio Vito, Roberto Barrera, Jose Agbas and the two declarants, Enrique Agbas and Jose Juarez. On the other hand, in Exhibit "F", it is stated four (4) times that there were only five (5), the declarant

included, who were responsible for what happened to Pedro Eslamado, two of whom were simply referred to as "Alex" and "Joe" and the rest left unnamed or un-identified. In Exhibits "D" and "B", Abayon was allegedly armed with a fighting bolo, while in Exhibit "F", Abayon averred that he was carrying a spade upon the instruction of "Alex" and "Joe". Again, in Exhibits "D" and "B", the perpetration of the offense is plainly being attributed to the instigation of Emperatriz "Peray" Borja who is claimed to have hired the group for a consideration of P500.00 and one-half of the produce for the first crop year of the land then being farmed by the victim Eslamado. In Exhibit "F", Emperatriz Borja's name is not even mentioned, instead, it is made to appear therein that the instigators and leaders were "Alex" and "Joe". To one question, Abayon answered, "It is true I also stabbed Pedro Eslamado x x x. I did that because I was told by Alex and Joe to do so and if I won't, they would kill me," and when asked about the remuneration for accomplishing the killing, Abayon replied, "Not even a cent."

The failure of the Government to present witnesses on rebuttal, to deny or contradict the claim of all the accused-appellants that they were subjected to violence, intimidation, threats and duress in the manner described in their respective testimonies during the trial with identification of the PC men responsible therefor, the times and places of their maltreatments, is fatal to the cause of the prosecution. While the Fiscal In-Charge asked that the case be postponed so that he may be allowed to present rebuttal witnesses, the PC soldiers mentioned by the accused,[52] and accordingly the Court issued an order on December 13, 1972 setting the case for continuation of trial on January 11 and 12, 1973[53], no rebuttal witness was presented at the hearing on January 11, 1973 and consequently, the trial Court considered the case submitted for decision. The records do not disclose any explanation as to why the prosecution could not produce even one of the PC men in rebuttal, nor why a motion for continuation of trial was not prayed for if more time was required, and further, why there was no objection at all interposed to the case being considered submitted for decision. Not even Hugo Durana and Capt. Ricardo Suguilon were summoned to rebut their participation in the investigation of the accused at which occasion they claimed to have been forced and maltreated to sign their alleged confessions. The telltale scars on the forehead of the accused Abayon, as well as on the upper lip which were exhibited before the trial Court and shown to be the effects of his maltreatment, including the names of persons, the guards at the provincial jail where he was confined and to whom he allegedly informed of what he had been through at the hands of the PC and that he was compelled to sign a statement,[54] should have impelled the prosecution to exert all efforts to produce rebuttal evidence.

Consequently, We hold and rule that the extra-judicial confessions of the accused Jose Juarez, Exhibit "D"; Enrique Agbas, Exhibit "E"; Reynaldo Abayon, Exhibit "F"; and Mariano Aragon, Exhibit "G" are inadmissible in evidence, the same having been extracted through force, violence, duress and intimidation.

In the two cases (Criminal Cases Nos. 39 and 39-A), the trial Court predicated its finding of conspiracy on the extrajudicial confessions hereinabove discredited and the testimony of the victim's widow.[55] Apart from these rejected confessions, the only evidence relevant to the question of whether or not there was conspiracy is the testimony of the widow, Mrs. Estelita Eslamado. Appellants, however, vigorously assail the credibility of this witness and contend that her testimony is insufficient and falls short of the required evidence to prove positive identification of appellants as participants and conspirators in the murder of Pedro Eslamado. We find merit in this contention.

There are inconsistencies between the testimony of Mrs. Eslamado in Court and the statements in her affidavit executed before the PC now forming part of the record, which create serious doubts on the identification of the appellants as the actual killers of Pedro Eslamado. In her Affidavit,[56] Mrs. Eslamado clearly and categorically stated, among others, that there were only five (5) persons who "arrested" her husband in the evening of June 14,

1971, that she did not know the two who went up the house, that the three who stayed down-stairs were Reynaldo Abayon, Rogelio Vito and Jose Agbas. Appellants Enrique Agbas, Jose Juarez and Mariano Aragon were not at all mentioned. Subsequently, at the trial of Criminal Case No. 39, Mrs. Eslamado identified all the five (5) persons as Jose Juarez, Mariano Aragon, Reynaldo Abayon, Rogelio Vito and Jose Agbas,[57] declaring that the first two accused were the ones who went up the house. Again, Enrique Agbas was not mentioned. Mrs. Eslamado also testified, with respect to Juarez and Aragon, that she knew said accused as she often met them "because our house is near each other", and she was "sure" they were the persons.[58] Testifying further, she stated that she did not know whether the other accused Herman Abayon, Roberto Barrera (both acquitted by the trial Court), and Enrique Agbas were there because she "did not see them." [59] However, at the trial of Criminal Case No. 39-A, Mrs. Eslamado apparently changed her story as to the number of persons because aside from the five men she named in Case No. 39, she averred that accused Enrique Agbas was one of the men who abducted her husband, and "he was even the one who put out the light", and that she "was not able to identify the other persons." [60] She claimed that Juarez and Aragon were the ones who went up the house and that she forgot to mention Enrique Agbas during the three (3) times that she went to the PC Headquarters regarding the case of her husband because she was "crying", "sick", "bleeding due to shock" and "groggy", and admitted that she did not mention Juarez and Aragon "because they were not yet found." [61]

The inconsistent declarations of Mrs. Eslamado hereinabove set forth are material and crucial in the identification of at least three of the accused, namely, Enrique Agbas, Jose Juarez and Mariano Aragon (L-36755), all of whom were familiar and known to the witness even before the alleged abduction of her husband. There is no reasonable explanation, and indeed this witness could give none, for her failure to denounce and identify all those whom she recognized among the abductors of her husband on the three (3) occasions that she went to the PC Headquarters, if in truth the aforementioned accused were involved in the kidnapping. The explanations she offers are unsatisfactory, and even absurd and ridiculous, merely serving to emphasize the weakness and unreliability of her testimony as a witness.

The totality of these contradictions, inconsistencies and flaws in the declarations of Mrs. Eslamado do not simply refer to minor or inconsequential details which may be justifiably overlooked, nor are they honest lapses which do not affect or impair the intrinsic value of her testimony. They relate instead to points material and essential to the identification of the deceased's assailants and, therefore, suffice to raise grave doubts as to the guilt of the accused.[62] In the case of *People vs. Salik Magonawal*, [63] We held that variance between the testimony and prior statements impaired the credibility of the prosecution witness.

With respect to the other three appellants, Reynaldo Abayon, Jose Agbas and Rogelio Vito (L-36754), We likewise hold that positive identification has not been established. We take note of and emphasize the fact that Mrs. Eslamado never testified to the actual slaying, but merely to the alleged kidnapping, of the deceased victim. In other words, Mrs. Eslamado was not, nor does she claim to be, an eyewitness to the murder, the very crime for which the appellants were found guilty by the lower Court. If at all, therefore, her testimony is merely circumstantial, and standing alone, it would not suffice to prove beyond reasonable doubt that appellants were the perpetrators of the murder in question.

We must also emphasize that with respect to the accused Rogelio Vito and Jose Agbas, the extrajudicial confessions of their co-accused presented as Exhibits "B", "D", "F", and "G" hereinbefore ruled as inadmissible, cannot also be considered much less admitted against said appellants Rogelio Vito and Jose Agbas under the doctrine of "*res inter alios acta*". [64]

This is then another occasion to reiterate Our holding that "(t)he identity of the offender, like the crime itself, must be proven beyond reasonable doubt." [65]

In sum and substance, We find that the evidence for the prosecution leaves much to be desired. We are not satisfied that the guilt of herein appellants has been proven to a moral certainty - a certainty that convinces and satisfies the reason and conscience of those who are to act upon it.[66]

WHEREFORE, We find that the guilt of appellants Reynaldo Abayon, Rogelio Vito and Jose Agbas in L-36754, and appellants Jose Juarez, Enrique Agbas and Mariano Aragon in L-36755, has not been proven beyond reasonable doubt. Accordingly, said accused are hereby ACQUITTED and the sentence against them is hereby REVERSED, with costs de oficio.

JUDGMENT REVERSED.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur. Teehankee and Aquino, JJ., no part.
Concepcion, Jr., J., on leave.

[1] Exhibit "A", Folder of Exhibits for the Prosecution.

[2] t.s.n., September 21, 1972, pp. 14-15.

[3] t.s.n., September 21, 1972, p. 18.

[4] Record of Criminal Case No. 39, p. 27.

[5] Ibid., pp. 28-29.

[6] Ibid., pp. 63-64.

[7] Certificate of Arraignment; Ibid., p. 71.

[8] t.s.n., March 20, 1972, pp. 5-13.

[9] t.s.n., March 20, 1972, p. 14; Records of Criminal Case No. 39-A, p. 3.

[10] Records of Criminal Case No. 39, pp. 159-160.

[11] Ibid., p. 161.

[12] Decision, pp. 3-4; Records of Criminal Case No. 39, pp. 252-253.

[13] See Records of Criminal Case No. 39-A.

[14] See Records of Criminal Case No. 39.

[15] See Records of Criminal Case No. 39.

[16] t.s.n., December 7, 1972, pp. 2-4 and December 11, 1972, pp. 16-20.

[17] t.s.n., December 12, 1972, pp. 2-11.

[18] t.s.n., December 7, 1972, pp. 7-9.

[19] t.s.n., December 7, 1972, pp. 10-23, and December 11, 1972, pp. 1-15.

[20] t.s.n., December 12, 1972, pp. 12-13.

- [21] t.s.n., December 7, 1972, pp. 5-6.
- [22] t.s.n., December 12, 1972, pp. 12-13.
- [23] t.s.n., December 13, 1972, pp. 3-4.
- [24] t.s.n., December 12, 1972, pp. 6-7.
- [25] t.s.n., December 12, 1972, pp. 15-25.
- [26] t.s.n., December 13, 1972, pp. 8-11.
- [27] t.s.n., December 13, 1972, p. 19.
- [28] Minutes of January 11, 1973, Criminal Cases Nos. 39 and 39-A; See Records of Criminal Case No. 39, p. 272.
- [29] Decision of the Lower Court, p. 13; Records of Criminal Case No. 39, p. 262.
- [30] Decision of the Lower Court, p. 14; Records of Criminal Case No. 39-A, p. 97.
- [31] *People vs. Santos*, 52 Phil. 862; *People vs. Dorado*, L-23464, October 31, 1969, 30 SCRA 53, 57.
- [32] *People vs. Pascual*, L-27569, October 28, 1977, 80 SCRA 1, 16.
- [33] *People vs. Urro, et al.*, L-28405, April 27, 1972, 44 SCRA 473, 484, quoted in *People vs. Palacpac, et al.*, L-27822, February 28, 1973, 49 SCRA 440, 457, and *People vs. Manipula, et al.*, L-27608, July 6, 1973, 52 SCRA 1, 10.
- [34] See Francisco, *The Revised Rules of Court in the Philippines, Annotated and Commented*, Vol. VII, Part 1, 1970 ed., p. 429; *People vs. Buscato*, 74 SCRA 30, 49-51.
- [35] *People vs. Caramonte*, L-31866, November 7, 1979, 94 SCRA 150, 163.
- [36] *People vs. Llamoso, et al.*, L-24866, July 13, 1979; *People vs. Barrios, et al.*, L-34785, July 30, 1979; *People vs. Bautista, et al.*, L-31900, Aug. 6, 1979; *People vs. Castañeda, et al.*, L-32625, August 31, 1979; and *People vs. Villa, et al.*, L-31401, October 30, 1979.
- [37] Exhibit "1", Records of Criminal Case No. 39-A.
- [38] Exhibit "H", Records of Criminal Case No. 39-A.
- [39] t.s.n., March 20, 1972, pp. 30-31; t.s.n., April 17, 1972, pp. 6 and 15.
- [40] Decision in Criminal Case No. 39-A, p. 7.
- [41] See *People vs. Urro, et al.*, *supra*, p. 485.
- [42] Exhibit "D-2", Records of Criminal Case No. 39, underscoring supplied.
- [43] Exhibit "B-1", Records of Criminal Case No. 39, underscoring supplied.
- [44] Exhibit "D-1", Records of Criminal Case No. 39.
- [45] Exhibit "B", Records of Criminal Case No. 39.
- [46] Records of Criminal Case No. 39, p. 44.
- [47] t.s.n., October 16, 1972, p. 19.

[48] t.s.n., September 21, 1972, pp. 19 and 12.

[49] t.s.n., September 21, 1972, p. 15.

[50] Ibid.

[51] Ibid., pp. 16-17.

[52] t.s.n., December 13, 1972, p. 19.

[53] Records of Criminal Case No. 39-A, p. 80.

[54] t.s.n., December 7, 1972, pp. 15-16 and 21.

[55] See Decision in Criminal Case No. 39, pp. 9-10; Rollo of L-36754, pp. 16-17; and Decision in Criminal Case No. 39-A, p. 10; Rollo of L-36755, p. 17.

[56] Exhibits "1" and "1-B", Folder of Exhibits, Records of Criminal Case No. 39-A.

[57] t.s.n., March 20, 1972, pp. 37, 43-44.

[58] Ibid., p. 52.

[59] Ibid., p. 61.

[60] t.s.n., April 17, 1972, pp. 3, 7-8.

[61] Ibid., pp. 10-11, 13-15.

[62] See *People vs. Salas, et al.*, L-35946, August 7, 1975, 66 SCRA 126, 133.

[63] L-35783, March 12, 1975, 63 SCRA 106, 112.

[64] *People vs. Guillermo, et al.*, L-36824, September 11, 1979.

[65] *People vs. Beltran*, L-31860, Nov. 29, 1974, 61 SCRA 246, 250; *People vs. Robles, et al.*, L-30060, July 30, 1979.

[66] See *People vs. Quinto*, L-35278, Oct. 23, 1979, citing *People vs. Lavarias*, 23 SCRA 1301, and *People vs. Alipio*, 14 SCRA 297; *People vs. Aquino*, L-36020, Oct. 30, 1979, citing *People vs. Basuel*, 42 SCRA 207; *People vs. Sarmiento*, L-46833, Dec. 28, 1979.

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