

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
POLICARPIO DUMAPIT, DEFENDANT AND APPELLANT.***G.R. No. L-743. October 11, 1949*

Ponente: PARAS, J.

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This is an appeal from a judgment of the People's Court finding the appellant, Policarpio Dumapit, guilty of treason and imposing upon him the penalty of reclusion perpetua, a fine of ten thousand pesos, and the costs.

The information charged six counts, but the People's Court based appellant's conviction only on counts IV and VI. Under count IV, the appellant is alleged to have caused, with the aid of a group of Constabulary soldiers, the arrest in barrio Balingahili, municipality of Botolan, province of Zambales, in March, 1943, of eight guerrillas who were thereafter investigated and tortured by the Constabulary and the Japanese and finally confined in the provincial jail for about three months. Under count VI, the appellant is accused of having issued on April 14, 1943, an order to Andres Atanasio, then Chief of the Non-Christian Tribes Of the East Zambales Mountains in Macasan, Botolan, Zambales, enjoining Andres Atanasio and his men to capture, dead or alive, all Americans roaming in the forests of Zambales, and to report the result of his mission to Onofre Dienzo, Superintendent of the Non-Christian Tribes of Zambales.

Upon a careful review of the evidence, we are convinced that a reversal of the appealed judgment is in order. As to count IV, we note that only three of the alleged victims testified for the prosecution. They were Federico Decag, Emilio Trapse and Catalino Dumangas. These, however, especially the last two, admitted that they were investigated for, and suspected of, having burned the heuse of Pedro Daco. (pp. 115, 131, 132 & 133, t. s. n.) Aside from the fact that the appellant denied having had any hand in the arrest in question, the circumstance remains that said arrest was effected as a result of the common crime of arson. That the matter had no treasonous significance is shown by the further fact that those arrested were confined for almost the whole period of their detention in the provincial jail, and not in the Japanese garrison. If the Japanese in some way intervened, it was undoubtedly because they had their own eyes and ears even in civil offices and they merely wanted to be sure that any disorder was not directed against their authority and safety. But said intervention, without more, cannot be attributed to the voluntary invitation or denunciation on the part of the appellant or the Constabulary. Appellant's alleged authorship of the arrest is inconsistent, moreover, with the affidavit of Federico Decag (Exhibit I) to the effect that the appellant helped in having him and his companions released.

Neither is the charge in count VI tenable. The lone witness for the prosecution on this score is Andres Atanasio who had conspicuously supplied what is sufficient to exculpate the appellant; for it is noteworthy that this witness categorically testified that, as the appellant was handing over the written order for the capture of all Americans, the appellant told him to disregard the same. (p. 36, t. s. n.) The appellant admits having written the order, but corroborates witness Andres Atanasio in the latter's exculpatory testimony.

The immediate background of the appellant is further refutation of the likelihood that he had any treasonable

intent. The appellant was before the outbreak of the last war a corporal of the Manila Harbor Police and, upon order of his chief Alejo Valdes, was even the one who was entrusted with the task of taking the personal properties of the family of President Quezon to the motorship EDIL. If the appellant had undergone police training and become a member of the Constabulary during the Japanese occupation, it was at the behest of the then mayor of Botolan (Juan M. Corom) and provincial governor (Dantes), and with the knowledge and acquiescence of the guerrilla unit to which the appellant belonged. Indeed, the appellant was known to the underground men as "Ave Maria."

The appealed judgment is therefore reversed and the appellant acquitted, with costs de oficio. So ordered.

Moran, C.J., Ozaeta, Feria, Bengzon, Padilla, Montemayor, and Torres, JJ., concur.

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