

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FELIPE AGDEPPA, ET AL., DEFENDANTS, JULIO TAPEC,
DEFENDANT-APPELLANT.**

G.R. No. L-17489. December 24, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal, taken by Julio Tapeç, from a decision of the Court of First Instance of Ilocos Norte, convicting him and Felipe Agdeppa of the crime of murder and sentencing both to life imprisonment, to jointly and severally indemnify the heirs of the deceased Andrea Cabotaje in the sum of P6,000, as well as to pay the costs, and acquitting their co-defendant, Pascual Macoco, with the proportionate part of the costs de oficio.

The victim Andrea Cabotaje was, at the time of her death, single and about 28 years of age. Her mother's sister was married to appellant, Julio Tapeç, then about 40 years old, who, accordingly, was her uncle-in-law. This notwithstanding, Julio had extramarital relations with her. When, after a while, their affair became known, Felisa, Leonora and Pablo Cabotaje, the sisters and brother of Andrea, became angry at her. Andrea had to leave the house of the family, in the barrio of Masintoc, municipality of Paoay, Ilocos Norte, in which she stayed with Felisa and Pablo Cabotaje. Andrea first moved to the house of her other brother, Pedro Cabotaje, but, soon later, appellant brought her to Manila, where he supported her. For reasons not clearly appearing in the record - although, seemingly, after having a rift with appellant - she eventually re-turned to her hometown and lived once more with her sister and brother Felisa and Pablo Cabotaje. Their sister Leonora, married to Alejo Cueva, lived in another house, about five (5) meters away. Evidently desirous to resume his affair with Andrea, whom he found difficult to contact, owing, inter alia, to the animosity of the members of her family, apart from her seeming determination to turn a new leaf in life, appellant used to peep under her house, but her sisters would invariably drive him away. Because of her death, the true nature of Andrea's feelings must be deduced merely from her overt acts.

While grazing his carabao in the field, on April 24, 1954, Flaviano Bacod heard a feminine voice crying for help. Flaviano approached the place from whence the scream had come, and saw appellant pull Andrea by the shoulder, as well as throw her down to the ground, face upward, and try to ravish her. As she resisted him, Flaviano shouted for help, whereupon Tapeç ran away. Then, Andrea, whose dress was torn at one shoulder, stood up and asked Flaviano to be her witness, stating that appellant had tried to abuse her. Soon thereafter, Andrea, Flaviano and one Florentino Sadorra - who, likewise, claimed to have witnessed the occurrence - reported the same to Lucas D. Carpio, Justice of the Peace of Paoay. The latter took their respective affidavits,[1] which were subscribed and sworn to before him on April 28, 1954. Owing to the fact that it was long past noon when they finished this task and that Andrea had expressed the wish to file a formal complaint, Judge Carpio bade her to come back therefor at some other time; but, she never did so, owing to subsequent events.

It appears that, being aware of her former illicit relations with appellant, Judge Carpio found himself wondering

about her complaint. Judge Carpio wrote, therefore, a note to appellant informing him of the action taken by Andrea and inquiring about the truth concerning her charge. The next morning, while Andrea was fetching water from a well, appellant asked her why she had complained against him and begged her forgiveness. In reply, she upbraided him, adding, "You had been fooling me." In this connection, it appears that appellant had, also, had illicit relations with another woman, who became pregnant in consequence thereof.

On April 30, 1954, at about dusk, appellant walked to and fro, past Andrea's house, holding an unsheathed bolo and looking angrily at said house. Later, that evening, Andrea and Felisa Cabotaje took their dinner in the house of their sister, Leonora. As Felisa returned, thereafter, to her house, their neighbors, Felipe Agdeppa and Benjamin Bacud, came. The former remained at the door, holding something behind him, as the latter inquired about Pablo Cabotaje. Upon being informed that he had gone out for a walk, Benjamin and Felipe departed. Felisa followed them to the door and noticed that Felipe carried a gun. Presently, Andrea left the house of her sister, Leonora; but, as soon as she (Andrea) descended the stairs thereof, two shots rung in succession from under said stairs. When, thereupon, Felisa and Leonora looked towards the place where the shots had come, they saw Andrea sprawled on the ground near the stairs. She was dead with two bullet wounds on the back of the head.

The next day, Pfc. Teofilo Gamayo, of the Philippine Constabulary, went to the scene of the occurrence and proceeded to investigate. Having learned of the previous affair between Andrea and appellant and of the complaint for attempted rape filed by the former against the latter, Teofilo interviewed him. Appellant denied having had anything to do with Andrea's assassination and claimed to be fishing, some distance away, at the time of the occurrence. Appellant added, however, that Felipe Agdeppa had a .45 caliber gun and that Pascual Macoco, who used to go with him, could probably tell him when he (Felipe) was. The relatives of Andrea had, also, informed Teofilo that Benjamin Bacud and Felipe Agdeppa had been in her house, inquiring about Pablo Cabotaje, shortly before the occurrence. So, Teofilo sent for Benjamin Bacud and Pascual Macoco, both of whom revealed that the assassin was Felipe Agdeppa, who had gone to the barrio of Masisip, municipality of Sanchez Mira, Cagayan, after concealing, under a pile of hay stored in a given place, the gun used in the commission of the offense. Benjamin and Pascual brought Teofilo to said place, where he found said gun under a stack of hay.

On May 3, 1954, Pascual Macoco subscribed and swore, before Judge Carpio of Paoay, to a statement, Exhibits D and D-1, stating that, while Benjamin and he were in the ground floor of the house of Rufina Tabian, in the barrio of Callaguip, Paoay, Ilocos Norte, on April 30, 1954, at about dusk, Felipe Agdeppa came, carrying the submachine gun .45, later marked as Exhibit H, and invited them to take a walk; that Felipe led them to their own barrio (Masintoc), where appellant's house is; that, posting himself near the stairs thereof, Felipe whistled, whereupon appellant came down, spoke in whispers to Felipe and gave him some money; that, thereafter, Felipe invited Benjamin and Pascual to go westward, leading towards the house of Andrea; that Felipe then bade Pascual to wait near the stairs thereof, as he (Felipe) and Benjamin went up and inquired about Pablo Cabotaje; that, a few moments later, Felipe and Benjamin came down, and the three (3) of them - Pascual, followed by Benjamin and then Felipe - moved westward, but Felipe stopped in front of the house of Leonora; that, after walking away about 15 meters, Pascual heard two (2) shots in succession; that, as Pascual turned his head, he saw Felipe running from under said house of Leonora; that, thereupon, Pascual and Benjamin fled southward; that, when they were already far away from the scene of the occurrence, Felipe, who was following them, bade them to wait for him; that, as they did so, and Felipe overtook them, he warned them not to squeal on him, because, otherwise, he would kill them, adding that he had killed Andrea because appellant had told him to do so and paid him P100 therefor; that, later on Felipe concealed the gun inside a bodega, in the northern part of the barrio of Callaguip; and that, thereafter, Felipe proceeded eastward, stating that he was going to Cagayan, whereas Pascual and Benjamin went their own way.

On the same date, Benjamin Bacud executed a similar affidavit (Exhibits C and C-1) before Judge Carpio, adding that, when Felipe and he (Benjamin) went up the house of Andrea, he (Benjamin) inquired about Pablo Cabotaje; that, upon being informed that Pablo was away, Felipe and he (Benjamin) went down; and that, as the three (3) of them (Benjamin, Pascual and Felipe) passed in front of the house of Leonora, they noticed that Andrea was there.

Thereupon, Teofilo Gamayo filed the corresponding complaint for murder against Felipe Agdeppa, Pascual Macoco and Julio Tapeç, which was amended on May 12, 1954, and re-amended on July 26, 1954, to include Benjamin Bacud as one of the defendants.

Meanwhile, or on May 6, 1954, Teofilo Gamayo and another PC soldier, accompanied by Benjamin Bacud and Pascual Macoco, had gone to Masisip, Sanchez Mira, Cagayan, where Felipe Agdeppa was apprehended. Upon investigation, the latter confirmed substantially the stories set forth in the affidavits of Benjamin Bacud and Pascual Macoco, and stated that the sub-machine gun, Exhibit H, had been given to him (Felipe Agdeppa) by appellant for use in killing Andrea, with the understanding that he (Felipe) could keep it thereafter, as part of the consideration for his services.

Brought back to Ilocos Norte, Felipe executed, before Judge Carpio, on May 10, 1954, the affidavit Exhibit F, stating therein that it was he (Felipe) who had shot Andrea Cabotaje in Masintoc, Paoay, Ilocos Norte, in the evening of April 30, 1954; that, in the afternoon of April 29, 1954, he met appellant east of the place where their houses are located; that appellant urged him to kill Andrea for a price; that he was, at first, afraid to do so, but, appellant allayed his fear, stating that he (appellant) would take care of him and furnish the gun with which to carry out his mission; that he demurred, saying that he did not know how to use a gun; that appellant bade him to wait and, fetching the sub-machine gun, later marked as Exhibit H, taught him how to handle it; that appellant then left the gun in his possession, stating that it was already his, as well as promising to pay him P100, apart from assuring him that, if caught, he (appellant) would see to it that he (Felipe) was released; that, that evening, he went home, bringing the gun with him; that, in the evening of April 30, 1954, shortly before the occurrence, he invited Pascual Macoco and Benjamin Bacud to come with him; that they proceeded to the place where appellant's house is located; that, while Pascual and Benjamin were a few paces away, although within his (Felipe's) view, appellant gave him P100, consisting of one 50-peso bill, two 20-peso bills and one 10-peso bill; that, thereafter, Pascual, Benjamin, and he went to Andrea's place; that, after waiting for Andrea under the stairs of Leonora's house, he fired at her (Andrea) as she went down said stairs; that Benjamin and Pascual were then about ten (10) meters away; that, forthwith, Benjamin, Pascual and he fled southward, until they reached the barrio of Callaguip; that he concealed the gun in a hay stack, inside a camarin in that barrio; that, thereafter, he went to the poblacion and the next morning proceeded to Cagayan; and that, of the sum of P100 given by appellant, he (Felipe) had already spent P70 when Teofilo Gamayo apprehended him in Cagayan, thereby leaving a balance of P30, which he turned over to Teofilo.

Felipe Agdeppa and Benjamin Bacud were the only persons charged in the original information, which, after a re-investigation, was amended to include therein Julio Tapeç and Pascual Macoco, as defendants. Later, however, Benjamin Bacud was discharged from the information, to testify as witness for the prosecution, which he did, reiterating what is stated in his affidavit Exhibit C. Pascual Macoco, likewise, confirmed, on the witness stand, the story set forth in his affidavit Exhibit D. Their testimonies were corroborated by those of Flaviano Bacud, Leonora and Felisa Cabotaje, Teofilo Gamayo, Judge Lucas Carpio and Dr. Bartolome Pobre, the health officer who had made a post-mortem examination of the body of Andrea Cabotaje. Appellant Julio Tapeç stuck to his plea of innocence and alibi. He claimed to be fishing, about 1 kilometer from Andrea's house, when he and his companions heard the report of gunshots. The defense, likewise, placed Alfredo Alegado and Benito Labasan on the witness stand, to corroborate appellant's alibi.

Upon the other hand, testifying in his own defense, Felipe Agdeppa gave the following modified version: While he was in the house of his uncle, Marcelino Agdeppa, in the barrio of Masintoc, Paoay, Ilocos Norte, on April 30, 1954, after supper, Benjamin Bacud came and invited him to go to Callaguip. Felipe was reluctant to do so, but Benjamin insisted and he (Felipe) eventually accepted the invitation. Before proceeding to Callaguip, they passed by the house of Pascual Macoco, who joined them. After consuming a bottle of basi, in the store of Rufina Tabian, in Callaguip, they returned to Masintoc and passed by Benjamin's house, where he got a submachine gun. Then, Benjamin proposed that they go to the house of Andrea Cabotaje, in order to rob, stating that she had just sold several pigs. Felipe begged to be excused, but Benjamin pointed the gun at him, and said that he (Benjamin) would shoot him (Felipe) if he did not come along. Upon reaching Andrea's house, Benjamin went up the same, but soon came down and then posted himself near the stairs of the house of Leonora Cabotaje. When Andrea Cabotaje went down the same, Benjamin fired at her twice in succession. Then Felipe and Pascual ran away, followed by Benjamin. When the latter overtook them, he compelled them to receive money. The amount he gave to Felipe was P30. Felipe slept that evening in the house of his brother Lucio Agdeppa, about 400 meters from that of Andrea. Before dawn, the next morning, he left for Sanchez Mira, Cagayan, and stayed in the house of his brother, Andres Agdeppa, married to Maria Davalos.

About a week later, Pascual Macoco came and persuaded him to admit that it was he who had assassinated Andrea Cabotaje, arguing that he was still a minor, and that "we" (?) would raise money to engage a lawyer and secure his acquittal, as well as adding that, otherwise, "we will kill you." Then, Pascual left, but, soon thereafter, he came back with two (2) PC soldiers, Teo-filo Gamayo and one Mr. Partido. As Teofilo inquired whether he was Andrea's killer, Felipe answered "No". Then, securing permission to talk to him, Benjamin Bacud took him aside and advised him to say that Andrea had been killed by him (Felipe) upon the behest of appellant Julio Tapeç, apart from warning him that, otherwise, "we will kill you." Owing to this threat, Felipe agreed to admit his guilt. This notwithstanding, he still pleaded innocence when he was investigated in the Constabulary barracks in Laoag. As Pascual Macoco came, soon later, and the investigator asked him (Felipe), once more, whether Andrea had been killed by him, this time, out of fear, he answered affirmatively, and said that appellant had paid him P100 therefor. His thumbmark was then affixed on a document, the contents of which he did not know. He, however, swore to the truth of said contents before Judge Carpio. Subsequently, Benjamin Bacud and Pascual Macoco visited him from time to time, and gave him small sums of money (P10, P2 and P1) on each occasion, as well as renewed their promise to engage the services of counsel. They, likewise, threatened to kill him should he not abide by their agreement, but they failed to keep their promise. Hence, he testified as he did. He admitted, however, that the questions and answers appearing in his affidavit Exhibit F were actually propounded to and given by him, and explained that he gave said answers in accordance with the instructions of Benjamin Bacud and Pascual Macoco.

The defense introduced, also, the testimony of: 1) Maria Davalo - the sister-in-law of Felipe Agdeppa - in corroboration of his testimony about what transpired in her house on May 6, 1954; and 2) Godofredo Galeng, Dominador Mijares, Felipe Puri-sima and Esteban Agdeppa, to contradict the testimony of Benjamin Bacud.

The trial court did not believe, however, the witnesses for the defense, and accepted the version of the prosecution. Hence, its aforementioned decision convicting Julio Tapeç and Felipe Agdeppa, but acquitting Pascual Macoco, upon the ground of insufficiency of the evidence against him. Only defendant Julio Tapeç has appealed from said decision.

The appeal hinges on the sufficiency or insufficiency of the evidence to establish that appellant had induced Felipe Agdeppa to kill Andrea Cabotaje. After going over the voluminous transcript of the stenographic notes and the scores of exhibits introduced in evidence, which His Honor, the trial Judge, had analyzed carefully in his 44-page

decision, We find ourselves fully in agreement with the conclusions reached therein. Although the direct evidence against appellant consists mainly of the extrajudicial confessions of Felipe Agdeppa, who gave another story on the witness stand, We are satisfied that appellant's guilt, as author by inducement, has been duly established.

1. Indeed, said extrajudicial confession was corroborated in so many respects as to leave no room for doubt about the truth thereof. Thus,

(a) Pascual Macoco and Benjamin Bacud were admittedly with Felipe Agdeppa at the time of the commission of the crime charged, as well as sometime before and subsequently thereto. Pascual and Benjamin testified that, shortly before the occurrence, they were in the barrio of Callaguip, where Felipe, who then carried the submachine gun Exhibit H, joined them; that, thereafter, they returned to their own barrio of Masintoc and passed by appellant's house; that, as Felipe approached the stairs thereof and whistled, appellant came down and spoke to Felipe; that Pascual and Benjamin were then about five (5) meters away from them; that, although the first two (2) did not hear the conversation between Felipe and appellant, the former (Pascual and Benjamin) saw appellant deliver some money bills to Felipe; that Pascual even heard the name of Andrea mentioned in the course of said conversation; that, immediately thereafter, the trio proceeded to the house of Andrea; that Benjamin and Felipe went up said house and inquired about Pablo Cabotaje, while Pascual waited at the foot of the stairs; that, presently, Benjamin and Felipe came down, and, together with Pascual, they passed by the stairs of Leonora's house, where Andrea was; that, Felipe posted himself beside or under said stairs, as Benjamin and Pascual walked some 15 meters away; that when, soon later, Andrea came down from Leonora's house, Felipe fired twice in succession; that, as the trio ran away immediately thereafter, Felipe bade his companions not to squeal on him and told them that he had killed Andrea by order of appellant, who had paid him P100 therefor, as well as gave him the aforementioned gun; and that Felipe, subsequently, concealed it inside a storehouse in Callaguip.

(b) Felipe's extrajudicial confession was also corroborated by the fact that the gun was found by Teofilo Gamayo in the place mentioned in said confession.

(c) The same was, likewise, confirmed by the fact that, when Benjamin Bacud and Felipe Agdeppa left the house of Andrea, after inquiring about Pablo Cabotaje, and Felisa Cabotaje followed them to the door, she noticed that Felipe was holding said gun. Apart from corroborating the testimony and the affidavits (Exhibits C and D) of Benjamin Bacud and Pascual Macoco, to the effect that it was Felipe Agdeppa who carried said gun and killed Andrea, the aforementioned testimony of Felisa refutes that of Felipe, who said that the gun belonged to Benjamin Bacud and that it was he who brought it to the scene of the occurrence and shot Andrea, as well as belies, not only the testimony of Godofredo Galeng, Alfredo Alejado and Felipe Purisima, who would have us believe that they had heard Benjamin Bacud and Pascual Macoco admit that the gun Exhibit H belonged to them, but, also, the testimony of Esteban Agdeppa, father of Felipe Agdeppa, who affirmed that he had seen Benjamin Bacud and Pascual Macoco engage in target practice.

2. It is worthy of notice, also, that Felisa had no possible reason to thus suggest that the assassin was Felipe Agdeppa, not Benjamin Bacud, if the gun was really held by the latter, for she and the members of her family were in the friendliest of terms with Felipe, Benjamin and Pascual. Moreover, she could not implicate an innocent person, without thereby exonerating the murderer of her own sister. Then, too, her testimony as regards the possessor of the gun in the evening of the occurrence was further bolstered up by the fact that, upon being investigated by Teofilo Gamayo, on May 1, 1954, appellant told him that Felipe Agdeppa had a .45 caliber gun, the caliber of Exhibit H. The information thus supplied by appellant, in turn, confirms the statement in Felipe's extrajudicial confession (Exhibit F) to the effect that the gun had been furnished by appellant, so that he (Felipe) could use it to kill Andrea and then keep it, as part of his reward therefor.

Upon the other hand, the testimony of Godofredo Galang and Felipe Purisima, municipal policemen of Paoay, to the effect that, while they were investigating Benjamin Bacud, he (Benjamin) suggested to them that Felipe Agdeppa be named as Andrea's killer, inasmuch as he (Felipe) was not around at that time, is, to say the least, manifestly incredible. It is highly inconceivable that alleged criminals would suggest to the very peace officers investigating them, and whose duty is to prosecute them, that somebody else be blamed for the crime in question.

3. Felipe's testimony about the circumstances under which he claims to have been induced to make a false extrajudicial confession and then to swear to the truth thereof before Judge Carpio, is evidently unworthy of credence.

(a) He declared that, one week after the occurrence, Pascual Macoco urged him, in Sanchez Mira, to admit that he was Andrea's killer, he (Felipe) being then a minor, thereby intimating that he would, if convicted, get a light penalty, at the same time assuring him that money would be raised to engage the services of counsel, in order to secure his release and acquittal. The records show, however, that Felipe was born on September 20, 1930, so that he was over 23 years of age at the time of the occurrence, and Pascual Macoco could not have made the statement imputed to him by Felipe.

(b) Again, had Andrea been actually shot by Benjamin Bacud, why should Pascual Macoco be interested in shifting the blame to Felipe Agdeppa?

(c) Felipe testified, also, that Benjamin Bacud later persuaded him to admit his guilt and name appellant herein as the instigator of the crime charged, apart from warning him that, otherwise, "we will kill you." Felipe did not explain, however, who were these "we", apart from Benjamin. Besides, Benjamin had no possible motive, either to kill Andrea, or to involve appellant herein in her assassination. On the contrary, Benjamin, Pascual and Felipe were in the most cordial relations with Andrea's family, for which reason Felisa sensed nothing unusual when Benjamin and Felipe went up her house shortly before the fatal shooting.

(d) Neither does the record show why the threat allegedly made, either by Pascual Macoco or by Benjamin Bacud or by both, to kill Felipe, should he not assume responsibility for Andrea's death, would suffice to induce him to agree thereto. Pascual and Benjamin were not armed, when the alleged threats were made. There is not the slightest indication that any of them had money, power or influence, to exert any pressure upon Felipe. The three (3) of them belonged to the same humble social station, and, being of about the same age and having grown up in the same barrio, they were close friends and had been hanging around together for many years. Hence, when Teofilo Gamayo sought to ascertain the whereabouts of Felipe Agdeppa, appellant suggested that Gamayo inquire about it from Pascual Macoco.

(e) We should not overlook the fact that the conversation between Pascual and Felipe, in Sanchez Mira, took place in the house of the latter's brother. It is difficult, therefore, to conceive that Pascual would have dared to threaten Felipe precisely where he must have felt a sense of security. Similarly, Felipe was in the Constabulary barracks in Laoag, Ilocos Norte, when the second threat was allegedly made to him (Felipe), this time by Benjamin Bacud. Being under the custody of the Constabulary, which could protect him, Felipe had no reason to fear Benjamin in that place. Significantly, it has not even been intimated that any member of the Constabulary or public officer had, at any time, exerted undue pressure or influence upon Felipe.

(f) As if this were not enough, Felipe admitted on the witness stand, that the questions and answers appearing in his affidavit Exhibit F had actually been propounded to and given by him. What is more, Judge Carpio, before whom Felipe had sworn to the truth of said statement, was, evidently, a friend of appellant herein. Indeed, Judge Carpio and appellant were together in the house of Andrea, while her body was lying in state therein, shortly after the occurrence. In fact, soon after Andrea had reported appellant's alleged attempt to ravish her, two (2) days

before, Judge Carpio wrote a note informing him of her intention to file a formal complaint, thereby giving him an opportunity, of which he availed, to try to appease her, which he did, although unsuccessfully, the next day. Certainly, Judge Carpio would not have attested to said extra-judicial confession had there been the slightest indicia that Felipe was not acting freely in connection therewith.

(g) Felipe's extrajudicial confession contains many details that only he could have supplied. Besides, said details dovetail with the facts set forth in the affidavits made by Pascual Macoco and Benjamin Bacud a week before. Again, some of those details were unknown to them (Pascual and Benjamin) and do not appear in their affidavits.

While Felipe was in the house of his brother, in Sanchez Mira, Pascual came - according to Felipe - and urged him to assume responsibility for the death of Andrea, because, otherwise, "we will kill you." When, soon thereafter, Teofilo Gamayo came and asked Felipe whether he was Andrea's killer, he answered in the negative. Thereupon, Benjamin took Felipe aside and repeated the advice and threat allegedly given and made before by Pascual. This time, Felipe agreed to follow said advice, only to deny his guilt, once more, when Teofilo Gamayo began to investigate him formally in Laoag, Ilocos Norte. As soon, however, as Pascual Macoco showed up, Felipe made the extrajudicial confession, Exhibit F. In none of the foregoing occasions was either Pascual or Benjamin alone with Felipe long enough to instruct him about the details of said confession.

Needless to say, the story thus given by Felipe on the witness stand, was refuted by that of Teofilo Gamayo, who declared that Felipe readily admitted his guilt in Sanchez Mira, and even gave therein some important details, which he elaborated in Laoag, in his extrajudicial confession, Exhibit F. Felipe's testimony does not even suggest that either Teofilo Gamayo or Judge Carpio, before whom Exhibit F was sworn to, had exerted any pressure upon him or allowed anybody to do so, in their presence.

(h) The fact that it was Felipe, not Benjamin Bacud, who went in hiding immediately after the occurrence and that Felipe has not appealed from the judgment of conviction rendered against him, despite his claim that it was Benjamin Bacud, not he, who had killed Andrea, suggests strongly that he was really her assassin.

4. Of particular significance in this case is appellant's testimony to the effect that he did not believe his illicit relations with his own niece, Andrea, had "lowered" his "prestige and character" in the eyes of the community and that he intended to "take her with" him "as soon as" his "wife died", the latter having been sick for quite some time. Moreover, he admitted that, meanwhile, he had, also, had extramarital relations with one Anastacia Cac, in consequence of which she bore him a child. Even more typically illustrative of appellant's frame of mind is the reason given by him, on the witness stand, to explain, if not justify, his affair with Andrea:

"x x x I saw her to be a beautiful woman in full bloom, and I did not want any man to get ahead of me in making her fall because if I postpone my love making to her, she might belong to another man afterwards."¹

A person with such a sense of moral values can hardly be expected to stop at nothing to attain his purpose. In his own words, he did not want Andrea to "belong to another man afterwards."

We are, therefore, of the opinion and so hold that appellant is guilty beyond reasonable doubt, as author by inducement, of the crime of murder, qualified by evident premeditation, with the generic aggravating circumstances of treachery and nighttime, in view of which the maximum of the penalty prescribed for said offense, or death, should be meted out, except that the number of votes necessary therefor are not present. This notwithstanding, the indemnity of P6,000.00 imposed in the decision appealed from should be increased to P12,000.00.¹

With this modification as to the indemnity, said decision is, accordingly, affirmed, in all other respects, with costs against appellant Julio Tapeç.

IT IS SO ORDERED.

Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Exhibits I, I-1, J, J-1, K, and K-1.

1 Underscoring supplied.

1 People v. Pantoja, G.R. No. L-18793, Oct. 11, 1968; People v. Gutierrez, G.R. No. L-25372, Nov. 29, 1968; People v. Buenbrazo, G.R. No. L-27852, Nov. 29, 1968; People v. Mabaga, G.R. No. L-26337, July 25, 1969; People v. Pagaduan, G.R. No. L-26948, Aug. 25, 1969.

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