

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE ALTO, ET AL., DEFENDANTS-APPELLANTS.

G.R. Nos. L-18660 and L-18661. November 29, 1968

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0b8bfb61c399/>

CASTRO, J.:

On December 7, 1956 an indictment for multiple murder (criminal case 4167) and another for frustrated multiple murder (criminal case 4181) were filed with the Court of First Instance of Nueva Ecija.

In criminal case 4167, Jose Alto, Bienvenido Almuete,- Melencio Gregorio, Melchor de Leon, Melencio Marcos, Pedro Paras and Ismael Dungao were charged with multiple murder, committed, in the language of the information, as follows:

"That on or about the 15th day of December, 1951, in the municipality of Quezon province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named defendants, Jose Alto, alias 'Alonso', Bienvenido Almuete alias 'Almo', Melencio Gregorio alias 'Melencio', Melchor de Leon alias, 'Commander Melchor', alias Melchor', Melencio Marcos alias 'Commander 'Rodil', Pedro Paras alias 'Go-long' and several others whose names and identities are still unknown, all armed members of the HMB Organization, conspiring together and mutually helping one another, with intent to kill, treachery and evident premeditation, night time purposely sought to facilitate the commission of the crime with impunity and in consideration of the reward of P2,000.00 made by the accused Jose Alto, did then and there wilfully, unlawfully, criminally, feloniously and illegally waylay and ambush Mayor Eduardo Joson, Cayetano Tangunan, Pedro Elvinia, Simplicio Siazon, and their other companions while on their way to reinforce the TPs at barrio Bertese, Quezon, Nueva Ecija, and fire and shoot at said Mayor Eduardo L. Joson and his companions as a result of which, Cayetano Tangunan, Pedro Elvinia and Simplicio Siazon received various fatal and serious gunshot wounds in different parts of their bodies which caused their instantaneous death."

Of the above-named accused only Jose Alto, Bienvenido Almuete, Melencio Marcos, Melencio Gregorio and Ismael Dungao stood trial. The rest were either at large or already dead.

In criminal case 4181, Jose Alto, Melchor de Leon, Pedro Paras, Ismael Dungao, Melencio Gregorio and others were charged with multiple frustrated murder. The information recites

"That on or about November 12, 1950, in the municipality of Sto. Domingo, province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the said defendants, Jose Alto alias 'Alonso', Melchor de Leon alias 'Melchor', John Doe alias 'Johnny', Pedro Paras alias 'Colong', Ismael Dungao alias 'Maeng', Melencio Gregorio alias 'Melencio', and several others whose names and identities are still unknown, all armed members of the Huk Organization conspiring together and mutually helping one another, with intent to kill, evident premeditation and at the instigation of the accused Jose Alto alias 'Alonso' who paid P2,000.00 to his co-accused as a reward for the killing of Mayor Eduardo L. Joson, of Quezon, Nueva Ecija did then and there wilfully, unlawfully, feloniously, criminally and illegally waylay and ambush said Mayor Eduardo L. Joson while riding in a jeep accompanied by Araceli N. Joson, Consuelo L. Joson, Vicente Bautista, and Tomas N. Joson on their way from Sto. Domingo to Quezon and fire and shoot at said

Mayor Eduardo L. Joson and his companions, said accused having performed all the acts of execution which should have produced the crime of multiple murder as a consequence but which nevertheless did not produce it by reason of causes independent of the will of the said accused and as a result of which serious physical injuries were inflicted upon the bodies of Eduardo L. Joson, Araceli N. Joson and Consuelo L. Joson, necessitating their hospitalization for quite some-time."

Of the above-named accused only Jose Alto, Ismael Dungao and Melencio Gregorio stood trial. The others were either at large or already dead.

After a protracted trial at which the prosecution presented separate evidence for each of the two cases while the defense introduced joint evidence for both cases, the trial court, on May 3, 1961, or almost five years after the filing of the two informations, rendered judgment as follows:

"WHEREFORE, in Criminal Case No. 4167, the accused Jose Alto, Bienvenido Almuete, Melencio Gregorio, and Melencio Marcos are each sentenced to three reclusion perpetua for the death of Cayetano Tanguan, Pedro Elviña, and Simplicio Siazon, and to pay the heirs of each of the said time P6,000.00 and to costs of the suit. Ismael Dungao is acquitted for lack of evidence. In Criminal Case No. 4181, the accused Jose Alto, Ismael Dungao, and Melencio Gregorio are each sentenced to four (4) indeterminate penalties, each of four years, two months and one day of prision correccional, as minimum, to twelve years five months and eleven days of reclusion temporal, as maximum, to indemnify the offended parties in the total amount of P10,000.00, for the frustrated murder of Eduardo Joson, Consuelo Noriel, Tomas Joson and Vicente Bautista, and to pay the costs of the suit; provided, however, that the maximum penalty to be served by the accused Jose Alto, Melencio Gregorio, Melencio Marcos, and Bienvenido Almuete shall not exceed threefold of the severest penalty and in no case shall it exceed 40 years. The accused shall pay the costs. The accused should be credited with one-half of their preventive imprisonment."

From this decision, all the defendants, except Bienvenido Almuete, appealed directly and separately to this Court. The appeal of Melencio Gregorio,[1] Melencio Marcos[2] and Ismael Dungao[3] were subsequently withdrawn by them. We are here therefore concerned solely with the appeal of Jose Alto.

The following are the uncontroverted salient facts: (1) In the years 1949, 1950 and 1951 Nueva Ecija was a Huk-infested province. Frequent clashes took place during that period between the dissidents and the temporary police (T. P.) and the "civilian guards" of the various municipalities. In the municipality of Quezon, in particular, the then incumbent Mayor Eduardo L. Joson, the principal complainant in both cases, led a vigorous and unrelenting campaign against the Huks. (2) In the local elections of 1947 and 1951 Eduardo Joson and Jose Alto were the major candidates for the mayoralty of Quezon, Nueva Ecija. Joson won over Alto in both elections. The latter admitted that after the 1947 election he chanced to remark that he had been cheated because "the civilian guards of Mayor Joson had carried away the ballot boxes." However, he never filed any formal protest. (3) On November 12, 1950, at the junction of Sto. Domingo and Quezon, Nueva Ecija, dissidents ambushed Joson who was returning to Quezon in a jeep with an aide and members of his family. Mayor Joson, Vicente Bautista, Consuelo L. Joson, Arceli Joson and Tomas Joson sustained serious physical injuries. (4) On December 15, 1951, at Curva Quezon, the Huks ambushed Mayor Joson and some regular and temporary policemen of Quezon while these were on their way to reinforce the temporary detachment detailed at barrio Partese. As a result, policemen Cayetano Tanguan, Pedro Alvinia and Simplicio Siazon of Quezon were slain.

The appellant Alto was linked to the two offenses solely on the basis of the price or reward of P2,000 he allegedly had given to the Huks for the liquidation of Mayor Joson.

The complete measure of the evidence on record inculcating the appellant as principal inducement is the totality of the declarations of prosecution witnesses Laureano Salvador, Toribio Garcia and Dominador Pineda and a

sworn statement of Melencio Marcos, one of the accused.

I.

In adjudging the appellant guilty, the trial court almost wholly relied upon the testimony of Laureano Salvador. What is Salvador's story? He testified that he was "in charge" of the Tanggulang Bayan[4] in barrio Parukot, Quezon, Nueva Ecija from 1946 to 1952. (In this latter year he surrendered to the authorities and severed his connections with the Huks.) In such capacity, he operated under the command of Isaac Francisco who was the supreme leader of the various Tanggulang Bayan units in Quezon and the neighboring localities. At the behest of Francisco, he attended a meeting at the house of Carlos Gabriel around the middle of August, 1950. Present at the meeting, aside from Francisco and Salvador, were commanders Marcial, Melchor and Reyes. Francisco informed them that Jose Alto had offered P2,000 for the liquidation of Mayor Joson, and those present unanimously agreed to the proposal. More than two months later, or more specifically on the day following all Saints' Day (November 2, 1950), Salvador went with Francisco to the house of Jose Alto in the poblacion of Quezon where they conveyed to the latter the acceptance by the Huk commanders of the appellant's proposition. Alto then gave to Francisco the promised P2,000, with the explicit instructions that the money be delivered to commander Marcial and that the ambush of Mayor Joson be effected. Forthwith, the two emissaries left. On the afternoon of the same day they proceeded to Pantok in barrio Parukot, a part of the land owned by Alto, where Francisco delivered the P2,000 to commander Marcial in the presence of commanders Melchor and Reyes and another person whom Salvador could not identify. Francisco informed the Huk commanders about Alto's instructions. The commanders then issued a receipt for P2,000, and swore - by raising their hands - that they had received the money. After this occasion, he never again saw Marcial, Melchor and Reyes. He admitted that he did not witness the two ambushes in question.

Because the principal foundation of the entire case against the appellant is Salvador's testimony, it behooved us to scrutinize and examine it with painstaking care. Even after three readings of the entire transcript, we must confess that we are unable to shake off nagging doubts as to the veracity of Salvador's declarations.

1. To begin with, his testimony is utterly uncorroborated in its vital points. As far as the record goes - and we have repeatedly probed the four corners of the record - Salvador was the only eyewitness to the handling by Alto of the amount of P2,000 to Francisco and the subsequent delivery by the latter to Marcial. The two other witnesses, Toribio Garcia and Dominador Pineda, were not privy to the passing on the money from hand to hand. The sworn statement of Melencio Marcos speaks of knowledge supposedly acquired by him after the money had been delivered. On top of this, Francisco, who was allegedly with Salvador when the money was given by Alto, is already dead and therefore cannot be cross-examined.

This uncorroborated testimony of Salvador is considerably enfeebled by his own admission that he was an accomplice. Although the law does not exclude evidence given by an accomplice, our jurisprudence has consistently enjoined courts, in the appreciation of such evidence, to exercise the greatest degree of caution and circumspection. In *People vs. Asinas*, [5] this Court emphasized "that a defendant in a criminal case cannot be convicted on the evidence of an accomplice only, and to sustain such conviction, there must be other evidence corroborating that of the accomplice which tends to show the guilt of the defendant." In an earlier case, this Court stated that the testimony of an accomplice "must be assayed and weighed with scrupulous care," and that "the corroborating testimony must be strong and convincing." [6] And the proper test to determine whether there is sufficient corroboration of the testimony of an accomplice is to "examine the evidence or evidences of the other witness or witnesses with a view to ascertaining if there be inculpatory evidence - evidence tending to connect the defendant with the offense. If there the accomplice is corroborated; if there is no inculpatory evidence there is no corroboration, although the accomplice may be corroborated in regard to any number of facts sworn to by him." [7]

2. The intrinsic and basic inverisimilitude of Salvador's testimony is underscored by his repetitious invocation of dead persons like Francisco and Marcial who can never be confronted by the accused. The defense proved the fact of death of Francisco and Marcial by presenting their respective death certificates (exh. 3-A and exh. 3-E, respectively). Salvador himself, in his affidavit, owned that he knew at the time he was testifying in court that Francisco was already dead, as was Carlos Gabriel in whose house the alleged initial meeting took place (exh. C).

3. Not only is the testimony of Salvador uncorroborated in its essential points; it is gravely flawed by a plethora of material contradictions. To mention only a glaring few.

(a) During the trial Salvador declared that he and Francisco went to the house of Alto on the day following All Saints' Day (November 2, 1950) in order to convey to the appellant the adherence of the Huk commanders to his proposal and to receive the promised reward. Thus -

"Q. Now, sometime in November, 1950, did you have occasion of seeing the accused Jose Alto?

"A. I saw him sir.

"Q. Can you give the precise time and date when you saw him in that month of November, 1950?

"A. I could.

"Q. Please state it.

"A. The next day after All Saints' Day of November.

"Q. What time of the day did you see him?

"A. At about 8:00 more or less.

"Q. Day or night?

"A. In the morning.

"Q. Where?

"A. In his house, sir.

"Q. Were you alone or in company?

"A. I was in company.

"Q. Who was your companion?

"A. Isaac Francisco.

"Q. Were you able to see him that morning, and will you please state to the court what transpired between you and the accused Jose Alto?

"A. We met in his house, sir, and Isaac Francisco and I told Jose Alto about our agreement with the Huks.

"Q. What was that agreement with the Huks which you told Jose Alto?

"A. The agreement we have had was that for Jose Alto to give P2,000 for the ambush of Mayor Joson.

"Q. After you have conveyed to the accused Jose Alto that agreement of the Huk commanders that you have mentioned, what did the accused Jose Alto say?

"A. The answer he made to me and to Isaac Francisco was 'If they would agree, I will give P2,000.00,' and it

was then when he invited us to go upstairs in his house.

“Q. You stated that the accused Jose Alto gave P2,000.00. To whom did he give the P2,000.00?

“A. To Isaac Francisco.

The above declarations contradict his previous statement made at the preliminary investigation to the effect that he and Francisco went to the house of Jose Alto to get the money after only a few days had passed from the time the meeting was allegedly held, which was around the middle of August, 1950 - or still within the month of August! We quote the pertinent portion of the transcript:

“T. Anong buan noun ng kayo ay kapulungin ni Isaac Francisco?

“S. Buan pa ng Agosto taong 1950.

“T. Nagpunta ba kayo down sa bahay ni Carlos Gabriel?

“S. Nagpunta po.

“T. Ano ang nangyari down sa bahay in Carlos Gabriel?

“S. Nagpulong po kami nila Isaac Francisco, Commander Melchor, Commander Marcial, Commander Reyes, at saka isa pang hindi ko kilala.

“T. Ano ang inyong pinagpulangan?

“S. Nagpahayag po si Isaac Francisco na ang ating pagpupulungan ay tungkol po kay Mayor Joson ng nagbibigay raw po si Jose Alto ng dalawang libong piso para liquidahin si Mayor Joson. Ang sagot po nila Commander Melchor, Commander Marcial, Commander Reyes ng ayos.

“T. Pagkatapos nung pulong na iyong ay ano ang nangyari?

“S. Omowe na po kame at nagpaliban kami ng ilang araw at nagpunta kami sa bahay ni Jose Alto.

“T. Sino ang kasama ninio?

“S. Si Isaac Francisco po.

“T. Napunta ba kayo sa bahay ni Jose Alto?

“S. Napunta po kami.

“T. Ano ang nangyari sa bahay in Jose Alto?

“S. Dinaan po namin sa lupa at niyaya po kami sa itaas at ng kami po ay nasa itaas na ay itinanong ni Isaac Francisco kay Jose Alto na papano ba young atin pinagusapan. Ang sagot po ni Mr. Jose Alto ay ibibigay ko ang halagang dalawang libong piso, isagawa lamang ang pagtambang kay mayor Joson.

“T. Naibigay ba nung araw ang halagang dalawang libong piso?

“S. Naibigay po. (Preliminary investigation conducted by Judge Ignacio Lustre of the Justice of the Peace Court of Quezon on July 1, 1955.)

(b) In a previous testimony (exh. N) Salvador categorically stated that he did not know the real name of commander Melchor. At the trial, however, he testified that he knew Melchor because they were "in-laws" (magbilas). It stands to reason that Salvador should have known the real name of Melchor, especially so when both resided in the same community and belonged to the same subversive organization.

(c) Salvador declared that after he and Francisco delivered the money to Marcial, at no occasion did he again see Marcial, Reyes and Melchor. This contradicts his previous affirmation that he saw Melchor in December, 1951 when the latter told him about the plot to ambush Mayor Joson at Curva (ex. N).

4. Furthermore, the long continued silence of Salvador - for a duration of almost four years before he suddenly volunteered to testify for the prosecution, engenders serious doubt as to his motives and renders his testimony suspect. Of course he tried to justify his long silence by saying that he feared reprisal from the Huks. To our mind, this is preposterous - for did he in 1952 have any apprehensions about incurring the animosity of his comrades when he deserted them and jumped over to the side of the law and the duly constituted authorities? If indeed he had knowledge of the events, as he professed he had, why did he not make report of them earlier, or in 1952 when he abandoned his arrant ways and retraced his steps to the path of the law? In *People vs. Marcos, et al.*,^[8] a witness for the prosecution claimed to have been present in the various stages of a conspiracy and to have participated in the commission of the offense. Nevertheless, he re-mained silent for approximately three years. This Court took a dim view of the witness' "long continued silence" and his motives for breaking his silence, saying, in no uncertain terms, that the change of attitude "could have not been due to a desirable impulse to serve the interest of justice and proves, if it proves anything at all, the tardy revival of stultified civic consciousness."

5. Finally, the testimony of Salvador was traversed to its very core not only by the appellant Alto but more importantly by Lucia va. de Gabriel, the widow of Carlos Gabriel in whose house the alleged initial meeting in the middle of August, 1950 took place. The transcript speaks for itself.

Testimony of Alto:

"Q. You said you had just seen the person of Lau-reano Salvador this morning in the provincial jail. Was this morning your first time to see him?

"A. No, sir.

"Q. When did you see him before today?

"A. The first time when he testified against me.

"Q. In these cases at bar?

"A. Yes, sir.

"Q. Do you know commander Marcial?

"A. No, sir, I do not know him.

"Q. Do you know commander Reyes?

"A. No Sir, I do not know him.

"Q. Did you know or do you know commander Melchor?

"A. No, sir, I do not know him.

"Q. According to this Laureano Salvador he and Isaac Francisco went to see you at your house in Quezon, Nueva, Ecija, somewhere in 1950 and during that occasion you delivered P2,000.00 to Isaac Francisco to be delivered to commander Marcial, is that true or not?

"A. That is not true.

"Q. In November 1950, that is after All Saints' Day where were you?

"A. I was at home in Quezon, Nueva Ecija.

"Q. In your drugstore?

"A. Yes, sir.

"Q. According to Laureano Salvador testifying before this Honorable Court on May 3, 1957, this Laureano Salvador and Isaac Francisco talked with you in your house at Quezon and the subject matter of your conversation was your agreement with the huks. Is it true you talked with Isaac Francisco and Laureano Salvador on the day after All Saints' Day of November, 1950 at your house in Quezon?

"A. No, sir, that is not true.

"Q. He also stated that there was an agreement between you and the huks that you would give P2,000.00 for the ambush of Mayor Joson on the same occasion he testified before this Honorable Court on May 3, 1957, also regarding the agreement between you and the huks that you would give P2,000.00 for the ambush of Mayor Joson?

"A. There was no such agreement."

The appellant likewise denied knowing Carlos Gabriel and Isaac Francisco. Thus:

"Q. Do you know Carlos Gabriel?

"A. I do not know him.

"Q. But do you know Isaac Francisco?

"A. Neither I know."

Testimony of Lucia. Vda. de Gabriel:

"Q. Do you know Carlos Gabriel?

"A. He was my husband, sir.

"Q. Where is Carlos Gabriel now?

"A. He is already dead.

"Q. Where did he die?

"A. In Parukot, sir.

"Q. When did he die?

"A. Long time ago already, about eight years ago, sir.

"Q. When your husband Carlos Gabriel died about eight years ago where were you re-siding?

"A. At Parukot sir.

"Q. Do you have a house in Parukot?

"A. Yes sir."

"Q. In 1950 you had a house in Parukot?

"A. Yes, sir.

"Q. According to the declaration of Laureano Salvador before this Honorable Court, he declared that in the month of August, 1950, during the night thereof, Isaac Francisco, Carlos Gabriel, Commander Marcial, Commander Reyes and one he could not identify in name gathered in your house in Parukot, Quezon, Nueva Ecija, and on that occasion Jose Alto offered to give P2,000.00 and in fact gave P2,000.00 to Isaac Francisco after the meeting in your house, in Parukot, Quezon, Nueva Ecija, in 1950, is that correct?

"A. No sir.

"Q. Have your house been the meeting place of the Huks during the period, that year 1950?

"A. No sir.

"Q. In 1951 to 1953 had there been any meeting of the huks in your house?

"A. No, sir.

"Q. Had the premises around your house been the meeting place of huks from 1949 to 1953?

"A. No, sir."

Of incalculable import is the fact that Lucia's disavowal of any meeting in her house attended by Francisco, Salvador and Alto was never rebutted by the prosecution.

II.

The second witness for the prosecution, Toribio Garcia, testified at length on Alto's alleged cabals with the Huks in furtherance of the conspiracy to liquidate Joson. At the outset, it bears emphasis that Garcia does not lay claim to any personal knowledge that Alto gave P2,000 to the Huks, or more particularly to Isaac Francisco, nor that the said amount was in fact delivered by the latter to Marcial.

Let us examine Garcia's story. Since 1940, so he declared, he had been a member of the Hukbong Mapagpalaya ng Bayan, otherwise known as the HMB. He abandoned this organization in September, 1951 when he surrendered at Camp Murphy to General Duque. In 1950 Ramson was in command of the HMB military forces in Nueva Ecija, Estrada of the 12th field unit which embraced Quezon and Sto. Domingo in its area of operations. Upon instructions of Ramson and Estrada, Garcia used to procure medicines and rice from Alto. In the year 1950 he saw and met Alto thrice: in barrio Osmeña around the middle of October, in Pantok (Parukot) toward the end of October, and in Malayok about the end of December. When he met Alto in Osmeña, the latter was looking for Estrada in order to inquire why the agreement regarding Joson had not yet been implemented. He told Alto that he would relay the inquiry to Estrada. Before he left, Alto said that the Huks must send for him the moment they were in the vicinity. When he later met Alto in Pantok, the latter was accompanied by Laureano Salvador and Isaac Francisco. Also present at this meeting were Estrada and himself. Alto remarked that "Ding" - referring to Joson - could already be ambushed because he used to commute between Sto. Domingo and Quezon. Estrada told Alto that although he could no longer direct the ambush because he had been assigned to Laguna, he would nevertheless assign Marcial and Melchor to effect it, and added that the money should be given to Marcial. Garcia did not witness the ambush staged on November 12, 1950, although he later learned about it from Marcial. Subsequently, he met Alto in Malayok, toward the end of December, 1950. Alto was then with Paulino Santiago while he (Garcia) was with Estrada. At this meeting Alto remarked that "Ding" could not be ambushed anymore because he was always "ready," and that they should wait a few months. Estrada agreed, adding that a new plan was necessary.

1. We are of the view that Garcia's version is not entitled to credence. Of the array of prosecution witnesses, only Garcia testified on the alleged meetings had by Alto with the Huks concerning the liquidation of Joson. Not even

the principal witness, Laureano Salvador, made any advertence to the meetings allegedly had at Osmeña, Parukot and Malayok. Garcia was categorical on the presence of Salvador at the meeting between the appellant and Estrada in Parukot. But Salvador never even as much as hinted at this conference, and as a matter of fact he denied having had any conversation with Alto prior to November 2, 1950.

The drift of Garcia's declarations is that the conspiracy to liquidate Joson was originally conceived by Estrada and Alto, and that Marcial and Melchor learned of the plot only after the meeting in Parukot had toward the end of October, 1950, at which time Estrada informed Alto that he could not anymore direct the ambush as he had been assigned to Laguna. This belies the asseveration of Salvador that the conspiracy was forged in the middle of August, 1950 when Francisco for the first time relayed to Marcial, Melchor and Reyes the appellant's offer. Salvador testified thus:

"COURT:

"Q. The Court understands that you and Isaac Francisco had entered into the agreement with Commanders Reyes and Melchor, and two other parties to ambush Mayor Joson for P2,000.00. Is that correct?

"A. Yes, sir.

"Q. When did you enter into that agreement?

"A. In the month of August, 1950, sir.

"Q. What date in August?

"A. More or less about the middle of the month."

The inconsistencies between Garcia's narration and Salvador's story are so patent and so palpably irreconcilable, that this Court is inclined to agree with the contention of the defense that the charges against Alto were fabricated.

2. The improbability of both the story of Salvador and the narration of Garcia is heightened when we consider that they in effect picture Alto as so naive and utterly reckless as to conspire with numerous persons of divergent and heterogeneous backgrounds and persuasions regarding an evil and dangerous mission. It stands to reason that one who plots evil hides in the cloak of secrecy, if not anonymity. The prosecution has projected Alto's image as that of a man who scuttled all precaution and discretion, and not only called and attended meetings with Huk commanders to discuss the alleged conspiracy, and but as well even went to the extent of divulging his design to mere dissident followers. Against this cumulation of acts imputed to Alto is the defense's unembellished recitation of the life of a respected man in society, a pre-war mayor of Quezon, a family man with eight children, all of whom were then studying at the University of Santo Tomas (four in the college of medicine, one in the college of law, one in school of architecture, and two in high school), a progressive business man who owned a pharmacy, sari-sari store and a gasoline station, and operated a thriving transportation system, "The Angelita Transit." For such a man to risk his entire future and that of his family in one pitch and toss by confederating openly with the Huks, he must be driven by an overriding compelling motive. No such motive appears on record. True it is that Alto was embittered by his defeat to Joson in 1947 and that he made the remark that he had lost because Joson's "civilian guards" ran away with the ballot boxes. But remarks of this nature are ordinary woof and warp of the lives of politicians - who must make excuses for their defeats. It could be said, too, that Alto probably did not mean what he said because he did not even file a formal protest. Furthermore, this remark was made shortly after the elections in 1947 - and Alto is charged with conspiring in 1950 to have Joson killed, that is, after a lapse of three years!

In the oft-cited case of *Daggers vs. Van Dyke*,^[9] New Jersey Vice Chancellor Van Fleet quite aptly stated:

"Evidence, to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and-ex-perience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance." (emphasis supplied)

3. Like Salvador, Garcia repeatedly referred to Alto's alleged criminal alliance with persons whom, he knew at the time he gave his testimony in court to be already dead, and who could not therefore be cross-examined. The following admissions are revealing:

"Q. On that occasion when you were being investigated by Sgt. Malubag you knew already that Major Estrada was already dead?

"A. I already know.

"Q. You knew also then that Commander Marcial whom you mentioned in this affidavit Exhibit 2-impeachment is also dead?

"A. I know it already sir."

4. Again, like Salvador, Garcia said that he was privy to the conspiracy to liquidate Mayor Joson, but kept silent for more than five years, only to emerge in unexplained suddenness to narrate his tale.

5. Finally, when Garcia testified for the prosecution, he was already a tenant of the principal complainant Joson, who admitted their landlord-tenant relationship after some hesitation:

"Q. Is it not a fact that Toribio Garcia is one of your tenants in your farm in Parukot?

"A. No, he is not a tenant. I have no farm in Parukot.

"Q. Where is your farm?

"COURT:

"Q. Is he your tenant?

"A. No, your Honor.

"Q. Has he ever been your tenant?

"S. Only this year, your Honor."

Obviously Garcia's motives in testifying against Alto are suspect.

III.

The third witness, Dominador Pineda, implicated Alto with the second ambush staged on December 15, 1951 at Curva.

1. The only relevant declaration of Pineda with respect to the alleged complicity of the appellant is his statement that he saw Alto in his house talking with commander Rodil (Melencio Marcos) about Mayor Joson. He did not, however, elaborate nor give details of the conversation, although he stated that he overheard Rodil say to Alto that the "scales" (kaliskis) of Joson are of high quality and that he (Alto) must not be impatient. However, on cross-examination, Pineda gravely contradicted himself by admitting that this alleged statement was addressed to him by Rodil. Thus:

"Q. Are you sure of that, - that you did not have any conversation with the companions of Melchor de Leon that night?

"A. I was able to talk to Rodil then, sir.

"Q. What did Rodil or Melencio Marcos tell you?

"A. He said that the Mayor is of a high quality (mataas ang kaliskis).

"Q. That is all you heard from Melencio Marcos?

"A. That was the only thing Melencio Marcos told me, sir."

2. Pineda's testimony is impeached by the manifest improbability of his assertions.

First. - He testified that the Huks frequently gathered and ate in his house, and that on the night of the ambush at Curva, Rodil and his companions met in his house before proceeding to the ambush. However, Pineda admitted that his house was only 300 meters away from the municipal building, and that the temporary police were in constant patrol in that vicinity. In fact on the night he allegedly saw Rodil and Alto talking, he brought his family to his parents' house because he feared that the Huks and the temporary police might meet in armed encounter. It would seem then unusual that the Huks frequently gathered at his house and more unnatural that they made it their precise rendezvous point on the night of the attack at Curva despite its proximity to the municipal building and the patrol activities thereabouts of the temporary police.

Second. - Despite Pineda's supposed closeness to the Huks, he admitted that on the night of the ambush at Curva, Rodil, before leaving, had him guarded on surveillance by a Huk soldier.

Third. - Pineda testified that Bertese is about three kilo-meters distant from his house, but when asked, upon cross-examination, to calculate the time which transpired from the moment the Huks left his house to the time he heard the first volley of shots at Bertese, and also to approximate the time which elapsed from the moment and his companions left his house to the time they returned for the Huk soldier, he (Pineda) made patently ridiculous estimates:

"Q. If you smoke a cigarette from the time these people you said ate in your house up to the time the first volley of shots occurred in Bertese how many could you have consumed?

"A. Are you referring to the occasion beginning the time when they left?

"Q. Yes, from the time they left to the first volley of shots?

"A. More or less one cigarette.

"Q. How many cigarettes would you have consumed if you smoked from the time the guard guarded you up to the time they took him away?

"A. About after smoking a cigarette.

"Q. That is the time from the time they left you with a guard up to the time they passed by the guard?

"A. Yes, sir."

IV.

The prosecution sought to bolster its case against the appellant by introducing in evidence a sworn statement of Melencio Marcos, a co-accused, made by the latter while he was a detention prisoner in the provincial jail of

Nueva Ecija. This sworn statement, to which the trial court accorded inordinate credence, recites that Melencio Marcos was the representative or "kinatawan" of the commander of the PC -12, a military unit of the HMB; that on August 12, 1950 he saw Alto, Apolinario Ocol, Blas Angeles and Isaac Francisco in the house of Carlos Gabriel in barrio Parukot at a meeting attended by himself, Marcial, Melchor, commander Golong and Telmo; that Alto said that the meeting was called in connection with the liquidation of Mayor Joson as to which he was offering a reward of P2 ,000; that Alto added that if the Huks wanted they could send someone to get the money from him the next day; that the money was received from Alto the following month (September), but of the amount of P2,000, only P1,800 was delivered by Francisco to Marcial and Melchor before November 10, 1950 because Francisco retained the sum of P200; that subsequently Joson was ambushed at Mambarao, Quezon, Nueva Ecija; that more than a year later, or on December 12, 1951, Marcos again saw Alto, Ocol Angeles and Francisco at Dulong Bayan in Quezon together with colonel Aleman, commander Melchor and Golong; that at this meeting Alto, Ocol, Angeles and Francisco suggested that the best way to kill Jason was to attack barrio Bertese and to ambush him at Curva on his way to aid the detachment at Bertese; and that scheme was carried out and on December 15, 1951 Mayor Joson was ambushed at Curva.

Is this sworn statement entitled to credence, assuming that it is admissible as against appellant? We do not believe so.

1. We underscore the fact that this sworn statement was unequivocally retracted by Melencio Marcos. But before delving into the whys and wherefores of the said retraction, let us first analyze Marcos' declarations. The impression that immediately comes to the fore is that his story is completely at variance with the already conflicting accounts made by Salvador and Garcia. In fact it contradicts the testimony of Salvador on the matter of the price of P 2,000 which Alto allegedly gave to the Huks. Marcos declared that he knew that the money was taken from Alto during the month following their meeting in August, 1950, that is, in September 1950; His declaration to this effect is as follows:

"T. Nalaman mo ba kung nakuha, iyong kualta kay Jose Alto ni Isaac Francisco?

"S. Opo, nakuha po, nuong pong susunod na buan na iyon pero hindi ko lang matandaaan kung anong petsa ng intrego ni Isaac Francisco kay Kumander Marcial. Pero natitiyak ko po na bago dumating ang Nobiembre 10, 1950."

Whereas, Salvador testified that Francisco and he got the money from Alto on the day following All Saints' Day (November 2, 1950). Marcos also declared that of the P2,000, Francisco delivered to Marcial only P1,800, because Francisco retained P200. Thus:

"T. Magkano iyong kuantang iniyabot?

"S. Ang nakito ko pang iniyabot ni Ronquillo kay Numander Marcial, Melchor ay pagkakabilang ay P1,800. 00 at nuong iniyabot iyong ay sinabi ni Ronquillo na iyon ay P2,000.00 at hiniram lang niya ang P200.00."

On the contrary Salvador categorically declared that on the afternoon of the day following All Saints' Day Francisco delivered the P2,000 to Marcial and in fact a receipt for such amount was issued, attesting that they had received the full promised reward of P2,000.

2. Surprisingly, Garcia who testified on the conferences allegedly attended by Alto in Osmeña, Parukot and Malayok never mentioned the presence of Marcos, and Marcos himself did not mention the presence of Garcia in any of the said conferences. Neither did Salvador mention the presence of Marcos in the said conclaves. And although they were unanimous that Francisco, Es-trada and Marcial were present at the various meetings which they attended, the cold undeniable fact is that all these Huk leaders are dead and could not be confronted by the

appellant.

3. Moreover, the statement of Marcos deserves no credit, not only because it was recanted, but also because it was given upon the repeated inducements of Joson while Marcos was a detention prisoner in the provincial jail of Nueva Ecija. The following declarations of Marcos during the trial are significant:

"Q. Will you please tell us why you signed this Exhibit E for the prosecution, and according to you have not seen Jose Alto in the month of August 1950, in the house of Carlos Gabriel pertaining whom you stated a while ago you did not know that fellow?

"A. The reasons why I signed that document, sir are: first, because I was intimidated by the policemen of Mr. Joson; second, because Mayor Joson promised me that he would help me in my two other cases that I have besides these ones; and third, that he would procure my release by the filing of a bond.

"Q. Any other reason for your signing this document Exhibit E?

"A. Yes, sir. There are some more.

"Q. Will you please tell us?

"A. Other reasons for my having signed the said document was that Mayor Joson together with Jose Corpuz promised that after I would be released upon the filing of a bond, I would live in any place in Quezon, Nueva Ecija, and that he would lend me three hectares of land which I could farm for my own benefit and that the produce will be exclusively mine until the cases are finished.

"Q. Did you know that when you signed this Exhibit E that you were declaring against Jose Alto, Ismael Dungao, and Melencio Gregorio in this case?

"A. It was only against Jose Alto that I knew that I was testifying, sir, but with respect to Ismael Dungao and Melencio Gregorio and Bienvenido Almuete I did not know that I was testifying against them.

"Q. Had you talk about Jose Alto with Mayor Joson concerning this Exhibit E, the statement of yours?

"A. Yes, sir.

"Q. What did he tell you about Alto?

"A. He told me for me to sign that document in order to send to jail Jose Alto after which he would do me every favor if he would succeed."

Verily, Marcos executed the said sworn statement, not to uphold public interest, but to obtain concessions from the authorities.

In *People vs. Capadocia*,^[10] this Court in debunking the credibility of a vital prosecution witness, observed that

"The inherent weakness, from the objective viewpoint, of the evidence given by Ternura is compounded by the existence of subjective reasons for him to implicate appellant. He was a confessed Huk under detention at the time. He knew his fate depended upon how much he cooperated with the authorities, who were then engaged in a vigorous anti-dissident campaign."

The testimony of Marcos regarding his reasons for making the sworn statement was corroborated by Bartolome Bernardo whose pertinent testimony is summarized by the trial court in its decision, as follows:

"Sometime during the middle of October, 1954, Mayor Joson went to the house of Bartolome Bernardo and requested the latter to help Mayor Joson by testifying in his favor, and Mayor Joson promised that he would take care of the cases of Melencio Marcos and secure his release on bail. Mayor Joson and Bernardo went to

the provincial jail where Melencio Marcos was and is still presently confined, and Bernardo informed him of the wishes of Mayor Joson. Melencio Marcos refused to testify in favor of Mayor Joson because, according to him, he did not know anything about the matter and that was the same answer that he gave to Mayor Joson when the latter talked with him. Mayor Joson and Bartolome Bernardo again returned to the provincial jail about the end of October with the same request and with the same promises, but again Melencio Marcos refused."

It must be noted that in the original information for multiple frustrated murder (criminal case 3372) and multiple murder (criminal case 3671) filed on February 10, 1955, which were subsequently provisionally dismissed^[11] for insufficiency of evidence, Melencio Marcos, Melencio Gregorio and Bienvenido Almuete were listed as witnesses for the prosecution. It was only after the retractions of Gregorio and Almuete and the desistance of Marcos from testifying for the prosecution that these three were included as defendants in the informations subject of the present appeal.

When the threat or promise was made by, or in the presence of, a person in authority, who has, or is supposed by the accused to have power or authority to fulfill the threat or promise, the confession of the accused will be presumed inadmissible.^[12] A confession made under the influence of threat or promise of reward or leniency is inadmissible.^[13]

It is thus that the sworn statement of Marcos does not deserve modicum of credence.

V.

In according credit to the prosecution witnesses, the trial court observed that "these witnesses for the prosecution had demonstrated a fair knowledge of the Huk organization and the functions of each of the branches thereof. It is not denied for example, that in any given section or command the military branch could not do anything without consulting the civilian branch of the organization." But it is precisely because of their intimate knowledge of the organizational set-up and operations of the Huk organization that any fabricated charge against the appellant could be given the semblance of verity. It is also obvious that these confessed Huks would with alacrity ally with the authorities just to purchase their security, knowing that the said authorities could at will revive charges against them.

As a salutary proposition, this Court usually desists from disturbing the conclusions of the trial court on the credibility of witnesses, in deference to the rule that the lower court, having seen and heard the witnesses and observed their demeanor and manner of testifying, is in a better position to appreciate the evidence.^[14] But this doctrine must bow to the superior and immutable rule that the guilt of the accused must be proved beyond a reasonable doubt, because the law presumes that a defendant is innocent, and this presumption must prevail unless overturned by competent and credible proof. We find the record wanting of competent and credible proof to sustain a moral certainty as to the guilt of the appellant.

Viewing the record in its entirety, we are not prepared to say that the evidence adduced precludes the possibility that the charges against Alto were politically motivated and contrived. Nor is the evidence incompatible with the suggested probability that the ambushes in question were integral parts of a determined campaign by the Huks to eliminate Mayor Joson who was an avowed mortal foe - of which campaign Alto may have been completely unaware; or if he was aware thereof he had no complicity therein.

ACCORDINGLY, the appellant Jose Alto is hereby acquitted, with costs de oficio.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando and Capistrano, JJ., concur.

-
- [1] Resolution of March 6, 1962.
- [2] Resolution of June 27, 1966.
- [3] Resolution of October 7, 1966.
- [4] Civilian unit of the HMB or the Huk Organization.
- [5] 53 Phil. 59; see also *People vs. Dizon and Dizon*, 7C Phil. 265; *People vs. De Otero*, 51 Phil. 203.
- [6] *U.S. vs. Remigio*, 37 Phil. 599, 610-611. See also *People vs. Lanas*, L-5086, March 25, 1953.
- [7] *Weldon vs. State*, 16 Tex. App. 400, cited in *People vs. Bagos and Bagos*, L-6808, L-6809 and L-6810, October 29, 1954.
- [8] 70 Phil. 468.
- [9] 37 N.J. Eg. 130, 132; see also *People vs. Diño*, 46 Phil. 396; *U.S. vs. Sta. Cruz*, 1 Phil. 726.
- [10] L-5796, August 29, 1966.
- [11] Order of April 29, 1955 of the CFI of Nueva Ecija.
- [12] *Early vs. Com.*, 80 Va. 921, 927, 928, 11 S.E. 795; *Searcy vs. State*, 28 Tex. App. 513, 14 S.W. 782.
- [13] See *U.S. vs. Caballeros*, 4 Phil. 350; *U.S. vs. Lamadrid*, 27 Phil. 76; *U.S. vs. Jose*, 6 Phil. 211.
- [14] *People vs. Dayday*, L-20806-07, Aug 14, 1965; *People vs. Pasiona*, L-18295, April 30, 1966.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.