

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RUPERTO AQUINO, ALIAS “PITONG,” ET AL.,
DEFENDANTS, RUPERTO AQUINO, ALIAS “PITONG,”
DEFENDANT AND APPELLANT.**

G.R. NO. L-27184. May 21, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The trial court's conviction of the accused-appellant Ruperto Aquino of the crime of robbery with homicide is hereby affirmed. His guilt has been duly established beyond reasonable doubt by the positive testimony of his co-accused Jose Fabro who was discharged from the information and utilized as a state witness at his trial, as corroborated by the extra-judicial confession of a third co-accused Manuel Mangsat who withdrew an earlier plea of not guilty and instead pleaded guilty to the same crime and is now serving the same sentence of reclusion perpetua and by the other supportive evidence of the prosecution.

On April 27, 1966, the accused-appellant Ruperto Aquino, together with Manuel Mangsat and Jose Fabro were charged in the Court of First Instance of Pangasinan with the crime of robbery with homicide for having robbed on February 28, 1966 the victim Victoria Costes Vda. de Mendinueto, an old woman of 84 years, of the sum of P32.00 in her house in Binalonan and on the occasion thereof inflicted upon her a deep stab wound with a knife which penetrated her liver and caused her death.

On June 6, 1966, when the case was called for trial, the accused Manuel Mangsat withdrew his earlier plea of not guilty and instead entered a guilty plea and was sentenced to reclusion perpetua. The other accused Jose Fabro was discharged and utilized as a state witness.

Hence, the trial proceeded only with respect to the accused-appellant Ruperto Aquino. After due trial, the lower court found him guilty beyond reasonable doubt of the crime as charged and sentenced him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased in the sum of P6,000.00 without subsidiary imprisonment in case of insolvency and to pay one-third of the costs.

The accused-appellant filed this appeal, alleging as lone assignment of error that he should not have been found guilty on "doubtful and inadmissible evidence."

From the evidence of record, the trial court found the facts as follows:

The victim, Victoria Costes Vda. de Mendinueto, 84, lived together with a small girl, Imelda, in her house in Binalonan, Pangasinan. On February 24, 1966, she and her daughter Mercedes who was visiting her sold five cavanos of palay for P90.00 and Mercedes left P32.00 of the proceeds with her mother (a P20-bill, two P5-bills and two P1-bills). Mercedes left early in the morning of February 28, 1966 to return to her home in Quezon City only to receive a telegram upon her arrival in the afternoon informing her that her mother had been stabbed to death that same morning.

On that same morning of February 28, 1966 at about 7:00 7:30 a.m., the accused Aquino had met with Mangsat and Fabro by the roadside near the Protestant chapel in Binalonan. Aquino asked them to accompany him to the house of the victim, his relative, to get some money as she had just sold some palay. The three of them proceeded to the house of Victoria. Upon arrival, Mangsat and Fabro stayed behind the batalan of the house while Aquino pushed its bamboo door and went up the house. Some moments later, Aquino called for Mangsat to come up the stairs leaving Fabro near the batalan. When the two were together up in the house, Fabro heard a muffled voice from there which sounded like that of a mouth covered with cloth and he became apprehensive. Shortly thereafter, according to him, Aquino and Mangsat came down, with the former holding a knife 1/2 foot long and 1 inch wide and his hands and the knife were covered with blood. Seeing the blood, Fabro became afraid and ran away and went home.

The killing was immediately reported to the police authorities of Binalonan. At 4:00 p.m. of the same day of February 28, 1966, the chief of police picked up Aquino as the first suspect since he was a neighbor and relative of the deceased. When he denied anything to do with the crime, he was released from police custody.

Sometime in March 1966, however, acting upon an anonymous letter pointing to Aquino and Mangsat as the two persons who were seen running away from the house of the victim Victoria on the morning she was killed, the police picked up Mangsat, who upon interrogation, executed a sworn statement on March 8, 1966, Exhibit B, admitting his participation in the killing of Victoria and in robbing her of the sum of P32.00. Mangsat named Aquino and Fabro as his companions in robbing and killing the victim. As already stated, he pleaded guilty at the trial and was sentenced to reclusion perpetua.

Aquino and Fabro were apprehended and investigated by the police immediately after Mangsat's confession. Fabro in his sworn statement of March 9, 1966, Exhibit C, admitted that he went with Aquino and Mangsat to the victim's house on the fatal morning of February 28, 1966 but that he just stayed downstairs and did not participate in the killing, adding that he did not know that they were going to rob and kill the victim. Fabro declared that while he and Aquino were detained at the municipal jail in the evening of March 8, 1966 after their apprehension, Aquino "told me to admit with Manuel Mangsat to have killed Baket Toyang (the victim) and that he will give me Two Hundred Pesos (P200.00) in cash, if he could go to Guam, he will be sending me money and on his vacation he will give me another P2,000.00 as my reward of admitting." [1]

On Mangsat's part, he declared in his confession that the three of them had at Aquino's invitation gone to the house of the victim on the morning of February 28, 1966 so that Aquino could get money from her as she had just sold some palay; that he and Aquino went up the victim's house with Fabro, who strangled and gagged her and that Aquino stabbed the old woman in the abdomen when she recognized him and took from the pocket of her skirt the total sum of P32.00 (which Aquino divided afterwards among them) as well as a bunch of keys which he threw among the banana trees during their flight from the house.

The autopsy report, Exhibit A, revealed that the victim's death was caused by three deep stab wounds penetrating the liver and severe internal hemorrhage.

Upon a review of the record, the Court sees no valid ground to set aside Aquino's conviction.

We find that the crime of robbery with homicide for which Aquino stands convicted was duly established beyond reasonable doubt by the positive testimony of Jose Fabro who was discharged from the information and utilized as a state witness, as corroborated by the extra-judicial confession, Exhibit D, of Manuel Mangsat who pleaded guilty to the same crime and is now serving the same sentence of reclusion perpetua and by the other supportive evidence of the prosecution.

Accused-appellant's seeking to cast doubt upon giving credence to Fabro's testimony as a conspirator or accomplice is amply refuted by the trial court's careful appraisal and evaluation thereof. It held that considering that Aquino was related to the victim, "there is reason for Jose Fabro to believe that Ruperto Aquino can freely and peacefully ask money from (the victim) without using force or resorting to acts of violence." The trial court thus held that "the testimony of Jose Fabro cannot be regarded as the testimony given by an accomplice or a co-conspirator. However, even assuming that Jose Fabro is an accomplice or a co-conspirator of the accused Ruperto Aquino in the commission of the crime charged in the information, his testimony is not inadmissible simply because of that fact. The rule is that the testimony of an accomplice is admissible and competent. Yet such testimony comes from a polluted source. Consequently, it is scrutinized with care. It is properly subject to grave suspicion. If not corroborated, credibility is affected. If corroborated absolutely and even to such an extent as is indicative of trustworthiness the testimony of an accomplice is sufficient to warrant conviction xxx xxx If even when uncorroborated, the testimony of an accomplice although coming from polluted source satisfies the Court, it is admissible in evidence, xxx xxx xxx and 'defendant may be convicted upon the unsupported evidence of an accomplice if it satisfies the Court beyond reasonable doubt, or when it is sincere in itself because given unhesitatingly and in a straight forward manner and full of details which by their nature could not have been the subject of deliberate afterthought.' (Vol. III, Moran, p. 583, 1957 ed; People vs. Seongog, CA-G.R. No. 00076-R, Jan. 20, 1961). Guided by this formula, the Court has no reason to doubt the trustworthiness and sincerity of the testimony of Jose Fabro, witness for the prosecution. xxx xxx xxx This witness Jose Fabro is a friend of the accused, Ruperto Aquino, and no motive or reason exists or has been shown for said witness to testify falsely against the accused. Such lack of motive further shows the reliability of the testimony of said witness."

The trial court further correctly noted that Aquino's proposal to Fabro to answer alone for the killing and to absolve him therefrom upon promise of monetary reward "can come only from someone with a guilty conscience" and that "this statement was given by Jose Fabro before he was discharged and utilized as a government witness, hence there can be no reason to suspect that it was made as a recompense for his discharge." [2]

What is even more convincing is that accused Aquino himself in his own sworn statement corroborated Fabro's damning testimony as to his proposal to buy Fabro's silence, although supposedly as a joke, thus: "I jokingly said to him that I will give him a reward of P200.00 to admit that he was the one who killed Mrs. Victoria Costes vda. de Mendinueto so that I will be freed from the blame that I killed Mrs. Victoria Costes vda. de Mendinueto as alleged by Manuel Mangsat. If I could go to Guam, on my return I will give him P2,000.00 for him to buy a Honda." [3] The added detail furnished by Aquino himself in his statement viz that he offered Fabro P2,000.00 "for him to buy a Honda" (which Fabro had not mentioned in his own statement, Exhibit C) [4] furnishes incontrovertible corroboration from the accused Aquino himself of his having tried to make Fabro the scapegoat, as testified to by Fabro.

No wonder then, that all that Aquino's counsel could feebly contend in his brief on appeal was that "at any rate, the offer, if true, is not an evidence of guilt. It could have been made by appellant to avoid being implicated in a crime he did not commit, and to avoid inconvenience, waste of time, and money arising from a court litigation. It must be noted, that Mangsat and Fabro signed written admissions or confessions, whereas appellant did not sign any despite the fact that he and the other two were investigated almost at the same time." [5]

It is to be significantly noted furthermore that none of the statements given by Aquino, Mangsat and Fabro has been challenged as to their voluntariness and authenticity.

The trial court's citing of the extra-judicial statements of Mangsat and Fabro (Exhibits B and C) as admissible against Aquino in determining the latter's guilt and in strengthening its conviction as to Aquino's guilt cannot therefore be successfully assailed in the light of the established doctrine that "Although an extrajudicial

confession as a rule is evidence only against the person making it, nonetheless, the same may serve as a corroborative evidence if it is clear from other facts and circumstances that other persons had participated in the perpetration of the crime charged and proved (*People vs. Padilla*, 48 Phil. 725)."[6]

To cite a graphic example: Mangsat's statement as to Aquino having taken aside from the money a bunch of keys from the victim's skirt-pocket which he threw afterwards near some banana plants during their flight gives a telling detail which Mangsat could not have simply concocted and which was borne out by the testimony of another daughter of the victim, Modesta Mendinueto, that she had searched her mother's pocket to get the keys of the aparador, but did not find the keys nor any money.

Finally, Aquino's defense of alibi was correctly turned down by the trial court in the light of the positive and direct evidence of his direct participation in the crime. As correctly noted by the trial court, the weakness of his alibi that he was asleep at home is shown by the fact that all the witnesses who testified thereto were biased and interested witnesses namely his mother, wife and brother and that such defense had no force at all considering that Aquino and the victim were neighbors and hence Aquino could easily have gone home and pretended to be asleep after having committed the dastardly crime.

The Court noted *motu proprio* that the commission of the crime is aggravated by the fact that it was committed in the dwelling of the victim[7] which in the absence of any mitigating circumstance would justify the imposition of the maximum penalty of death.[8] For failure however to obtain the necessary number of votes for the imposition of the death penalty, the penalty next lower in degree of reclusion perpetua as imposed by the trial court shall stand.[9]

ACCORDINGLY, the judgment of conviction appealed from is hereby affirmed with the modification that the indemnity to be paid to the heirs of the deceased Victoria Costes Vda. de Mendinueta shall be increased to P12,000.00.

SO ORDERED.

Makalintal, C.J., Zaldivar, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.
Castro, J., concurs in the result.

Fernando and Barredo, JJ., took no part.

[1] Exh. C, Rollo, p. 15 (sic); note in parenthesis supplied.

[2] Decision, appellant's brief, page 22.

[3] Exh. D, Aquino's statement, Rollo, p. 17; also marked as Exh. 3, Record, p. 4.

[4] *Supra*, at page 3.

[5] Appellant's brief, p. 10.

[6] *People vs. Sta. Maria*, 15 SCRA 222, 232.

[7] Art. 14, par. 3, Revised Penal Code.

[8] Art. 294, par. 1 in relation to Art. 63, *Idem*.

[9] The Solicitor General now Associate Justice Antonio P. Barredo likewise recommended affirmance of the penalty of life imprisonment imposed by the trial court.

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