

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALEJANDRO CARILLO Y ALMADIN ET AL., DEFENDANTS. ALEJANRO
CARLLO Y ALMADIN AND TORIBIO RAQUENIO Y PITAS,
APPELLANTS.**

G.R. No. L-2043. February 28, 1950

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/12abc6eb0705/>

PER CURIAM:

On June 4, 1947, between 8:00 and 9:00 p.m., Emma Foronda-Abaya and her friend Marcelino Lontok, Jr., while walking side by side on Pampanga street, Manila, on their way home from the Far Eastern University, were held up by two men, each at the point of a pistol, and were robbed of their personal belongings consisting of the following:

One Bulova wrist watch valued at P 50.00

One smoked glass with gold rim valued at 25.00

One Parker fountain pen valued at 25.00

Cash amounting to .40

Total P 100.40

belonging to Marcelino Lontok, Jr., and

One gold bracelet valued at P 35.00

One Elgin wrist watch valued at 80.00

One umbrella valued at 15.00

Cash in loose change 1.00

Total P 131.00

belonging to Emma Foronda-Abaya.

After robbing Emma, one of the two robbers took her to a secluded place, a vacant lot south of the street, and then and there hugged her, kissed her on the mouth, laid her down face upward on a log, and after pulling down her drawers placed himself on top of her with intent to satisfy his lust. In the meantime the other robber was holding

Marcelino Lontok, Jr., at the point of a pistol at a distance of about eight meters from the place where Emma was being ravished. Emma cried for help, saying, "Junior, pity me!" But Marcelino Lontok, Jr., was threatened by his captor with bodily harm if he should move to help her. The satyr did not succeed in raping his victim because she valiantly resisted and in the course of the struggle both of them fell on the mire beside the log. At that precise moment the other robber left Marcelino and approached his companion, telling him to stop and inviting him to leave the place. Marcelino escaped to seek help. At a distance of about 15 meters he heard two shots. When later in the same evening he returned to the place with a police patrol, they found Emma dead, her chest and abdomen pierced by two bullets. Two empty shells were found at the scene of the crime.

The Detective Bureau of the Manila Police Department mobilized its forces to discover the authors of the crime. They got the first tangible clue on the morning of June 10 when Detective Leano and Marcelino Lontok, Jr., recovered the latter's Bulova wrist watch from a peddler who was offering it for sale in front of the Ideal Theater on Rizal Avenue. The peddler, a colored American named Samuel Rhones, said that he had received the watch from one Jacinto Cornel, alias Wy Teng Seng, to sell. Jacinto Cornel told the detective that he had received the watch from one Salvador Custodio. The latter in turn said that he had bought it from a man called Big Boy, who turned out to be Brigido Carlos. Brigido Carlos said that the watch had been given to him in payment of a debt by a man whom he knew by the name of Visaya and who had a stall at the foot of Quezon Bridge. Visaya's real name turned out to be Saturnino Macawile. The latter at first denied having had anything to do with the watch, but after further investigation he admitted having delivered it to Brigido Carlos, alias Big Boy. At first he said he had bought the watch from a small boy about three years old; but after further questioning he said he had bought it from a fellow with tattoos on both arms, on the chest, and on the legs. Finally he revealed the identity of the mysterious seller as one known by the name of Romy. In view of his possession of the stolen watch, and because of his evasive answers as to its origin, Saturnino Macawile was suspected as one of the robbers. Indeed Marcelino Lontok, Jr., thought so at first. An information was therefore filed against Saturnino Macawile and John Doe on June 14, 1947, for the crime in question.

Subsequently, however, the detectives succeeded in establishing the identity of Romy as that of an ex-convict whose real name was Alejandro Carillo, alias Romy alias Iwahig. They went to the New Bilibid Prison in Muntinlupa, where they found his prison records and his photograph. His records show that he was convicted of robbery in an inhabited house in criminal case No. 63494 of the Court of First Instance of Manila, sentenced to 4 months and 1 day of imprisonment as minimum and 2 years, 4 months, and 1 day as maximum, and commenced to serve his sentence on June 27, 1941. On January 4, 1942, he was released on conditional pardon. In August, 1942, he was again convicted of robbery in an inhabited house in criminal case No. 511 and sentenced to 6 months' imprisonment as minimum and 2 years, 11 months, and 10 days as maximum, plus subsidiary imprisonment. He was also made to serve the unserved portion of his first sentence, he having violated the condition of his pardon. He was released from prison upon the expiration of his sentence on August 30, 1946. (Exhibit G.)

After thus ascertaining the identity of Romy, the detectives' next task was to find and arrest him. They discovered that he left Manila on a boat bound for Tacloban, Leyte, on June 8, 1947. Three detectives were dispatched to Tacloban, where they found and arrested Alejandro Carillo in the public market on June 23, 1947. He was at first brought to the police station of Tacloban, where he admitted verbally that he was the one who shot Emma Foronda-Abaya.

On the afternoon of June 24, 1947, Alejandro Garillo was interrogated by Detective D. Lapina in the presence of Detective L.O. Garcia in the office of the Manila Detective Bureau, the questions propounded to him in Tagalog and his answers having been reduced to writing by Stenographer D. B. Ferrer. He gave his name and personal

circumstances as follows: Alejandro Carillo y Almadin, 23 years old, single, a native of Tacloban, Leyte, painter, and a resident of Magallanes Avenue, Tacloban, Leyte. He declared that he resided first at 1472 Calavite, La Loma, Rizal, up to 1943 and then at 13 Esperanza, Quiapo, Manila; that he left Manila for Tacloban on June 4, 1947, because he happened to commit a crime. Answering further questions, he revealed that on the evening of June 4, 1947, about 8:30, he shot a woman on Aurora Avenue. We quote from his answers the following:

"On June 4, 1947, I was at 1472 Calavite at 5 p. m. Frank and I drank gin. At 8 p. m. we went out and walked on Aurora Avenue. While we were walking we met two persons, a woman and a man. We held them up and took them to a dark place. I took the watch of the man. After that I took hold of the woman and took off her drawers. The woman screamed. I pulled her to a muddy place. The woman pushed me. I also pushed her and then fired two shots at her. Afterwards Frank and I left and we separated. I slept at the Blue Dahlia Hotel. Four days after the woman had been killed, I went to Leyte to the house of my sister on Magallanes Avenue."

He said he had known Frank since May 2, 1947; that Frank did not tell him his full name but that Frank told him that he lived on San Juan street, Pasay, Rizal, and that he was a private detective; that on the night in question he was carrying a 45-caliber pistol and Frank, a Japanese Luger. He gave further details of the commission of the crime as follows:

"I took the watch of the man and Frank took the watch of the woman; I told Frank to watch the man. I approached the woman, and when I saw that she was pretty I intended to have carnal knowledge of her; so I took her to a yard and laid her on a log under banana trees. I kissed her on the mouth, pulled down her drawers, grasped her breasts and laid her on the log. She screamed and struggled, so we fell into the mud. When I got up, my feet sank into the mud; I got sore and took my pistol and shot her twice."

He further revealed that when the woman screamed, she called "Junior" in a loud voice; that he sold the man's watch for P11 to Nonoy Macawile, whom he identified then and there as the accused Saturnino Macawile, and who according to him was his housemate at 13 Esperanza, Quiapo; that he sold the watch to Macawile near the Quezon Bridge in Quiapo the day after the crime; that Macawile had been his housemate for about two years; that Macawile knew him by the name of Romy only; that Macawile did not know that the watch had been stolen from the man he and Frank held up; that he learned from the newspapers that the victims of the robbery he committed on June 4 were Emma and Lontok. He was shown the Bulova watch Exhibit D, and he identified it as the same watch he had taken from Lontok. He ratified that when he was arrested on June 23 in Tacloban he admitted before the local chief of police that he was the one who had shot Emma Foronda-Abaya. He also revealed that when he was seven years old he was confined in the Welfareville Training School for theft, and that in 1939 and 1941 he was sentenced and incarcerated in Muntinlupa for robbery. After his declaration was put in writing, he signed it and then ratified it under oath before Assistant City Fiscal Julio Villamor. (Exhibit H.)

The detectives ascertained the identity of Frank mentioned by Alejandro Carillo to be Toribio Raquenio, who was apprehended on the night of June 25, 1947, and who on the evening of June 25, 1947, was subjected to interrogatories by Detective Tomas A. Calazan of the Manila Detective Bureau in the presence of Detective J. Senen. He gave his name and personal circumstances as Toribio Raquenio y Pitas, alias Torin alias Frank, 37 years of age, single, jobless, native of Cabugao, Ilocos Sur, and residing at 55 Main street, Sampaloc, Manila. The following is an excerpt from his answers to the interrogatories:

"I am a graduate of the public grammar school (seventh grade graduate) at Stockton, California, in the year 1932. At the age of eighteen I went there to work and engaged in cutting asparagus and lettuce in Salinas and Stockton, California, earning \$7 a day. In July, 1946, desirous of seeing my parents and relatives, I returned to the Philippines on the s.s. Marine Lanes, paying P400 for my fare. After staying a few months in my home province, I came to Manila and stayed in the house of my uncle Jesus Acosta at 73 Nacar, San Andres, Manila. I left the house of my uncle on the 1st day of June, 1947, and went to reside at 55 Main street, Sampaloc,

Manila, up to the time of my present arrest. I have been jobless since I arrived in Manila. In May I happened to meet one James Lavalle at the Cosmos Restaurant on the corner of Azcarraga and Rizal Avenue and he invited me to live with him in his house at 55 Main street, Sampaloc, after learning that I was looking for a house to live in. A week later I became acquainted with one Romy while I was at the Star Restaurant on Azcarraga street. Since then I have met him several times: once at the Central Hotel, corner of Azcarraga and Rizal Avenue, and later in the house of Simeon Madayag at 1472 Calavite, La Loma; then at the Cosmos Restaurant and again in the house of Simeon Madayag; then in the Aroma Cafe near the corner of Rizal Avenue and Azcarraga. The last meeting was on the afternoon of June 4, 1947. Romy invited me to drink beer and gin at the Star Restaurant after I had met him at the Aroma Cafe. About 6 p.m. of that day, June 4, 1947, we proceeded to the house of Simeon Madayag on Calavite street, and there Romy ordered again for Alcoholic drinks, and we drank in the house in the presence of an old woman. After drinking, Romy invited me to a walk after showing me his 45-caliber pistol stuck at his belly. Knowing him to be armed, I looked for the 38-caliber Japanese Luger which Madayag used to hide underneath the piles of their clothes inside their unlocked dresser. Fortunately I found the said firearm, so I took it without the knowledge of its owner, Simeon Madayag. I became acquainted with Simeon Madayag thru my uncle. I learned that Simeon Madayag was the chief of police of Munoz, Nueva Ecija, from his sister-in-law Viring. Romy and I boarded a bus in La Loma, heading for Santa Cruz, Manila, and upon reaching the crossroads near the Chinese Hospital, we alighted and walked northward on Aurora Avenue. While walking Romy told me that we were going to hold up any passers-by and not long afterwards he was in pursuit of two persons, one a girl and the other a man. He held them at the point of his pistol upon reaching a street corner. I then walked towards them and held the man at the point of my gun and took his wrist watch which I put inside the left breast pocket of my polo shirt. I continued holding the man while my companion Romy held up the girl at the point of his pistol. They passed alongside us heading southward until they (Romy and the girl) reached the log lying on one side of the street. I did not notice what they were doing as I kept holding my man, the companion of the girl. We were at a distance of about five meters from them. I then heard the girl screaming, so I told Romy, "That is enough; pity her." I noticed then that my man was moving away. I did not stop my man from going away taut instead approached Romy, whose victim was calling for "Junior," her companion. I told Romy to stop and leave the place. While I was about ten meters away from them (from Romy and the girl) I again heard the suppressed cry of the girl and simultaneously I heard two successive shots fired from the direction of Romy and the girl. I continued my pace in haste southward while I noticed that Romy was following me. Upon reaching the street corner which I found this morning to be that of Oroquieta and Bulacan, we separated from each other, Romy heading towards Rizal Avenue while I went to La Loma and returned the .38 caliber Japanese Luger to Simeon Madayag. Madayag was surprised to know that I took his firearm and he asked me for an explanation. I told him that I was drunk, not even telling him about the crime Romy and I committed on that particular night. Afterwards I left for my home in Sampaloc. The wrist watch which I forcibly took from the man was given by me to Romy on that same night of our robbery, while we were about to separate at the corner of Bulacan and Oroquieta streets. I do not remember whether I have taken some other articles from our victims, as I was drunk at that time. I did not tell anybody about the crime I committed with Romy on that night of June 4 because I was afraid of the relatives of the victims and of the police. I met Romy again yesterday morning, June 28, when I was made to confront him in that office of the other building (pointing to the office of Captain Tenorio in the Bilibid Compound). There he is (pointing to Alejandro Carillo y Almadin, alias Romy alias Romeo Reynaldo alias Amado Vergel). Although the place was dark at that time, I was able to recognize the man whom I held up at the point of my gun on account of his proximity to me. There is the man (pointing to Marcelino Lontok, Jr.). I could hardly recognize the girl because she was led away by Romy, but the memory of her features is still fresh in my mind, specially when she was in a reclining position on the log while Romy was stooping over her. (Exhibit E.)

On the afternoon of June 29, 1947, Alejandro Carillo was further interrogated by Detective J. P. Senen in the presence of Detective T. Calazan, and he then and there pointed to and identified Toribio Raquenio as the same man whom he knew as Frank, "who was my companion when we held up a couple at the corner of Pampanga and

Oroquieta on June 4, 1947." The following is an excerpt from his answers to the questions propounded by Detective Senen:

"The gun I used in the holdup was left by me in the possession of Simeon Madayag of 1472 Calavite, La Loma, Quezon City. I left it with him on June 7, 1947, before I left Manila for Leyte. That gun is mine. I bought it from a friend of mine who is already dead. It is a .45 caliber Colt pistol. I left it with Madayag because he is the only one I trust to take care of it. Aside from that, I had to leave it with him because I was afraid I would be searched on the boat when I went home to Leyte. I have known Madayag since April, 1947, the same day I became acquainted with Frank. The only article I took from my victims was the watch of the girl (Emma), but I think I dropped it when she resisted when I tried to rape her. The watch of Lontok came to my possession because Frank gave it to me. I do not know where the other articles taken from our victims are now. As far as I know, the gun used by Frank during the holdup was his, but I do not know where he got it. I do not know where Madayag is now. As to my educational attainment, I finished the sixth grade. (Exhibit F.)

After Alejandro Carillo and Toribio Raquenio had confessed as above narrated, and as part of the investigation, they were taken by the detectives on June 29, 1947, together with Marcelino Lontok, Jr., to the scene of the crime, which was ascertained to be the corner of Pampanga and Oroquieta streets. Then and there they re-enacted the crime with a policewoman impersonating Emma. Photographs of the re-enactment were taken and introduced in evidence during the trial. (Exhibits B-8, B-9, and B-10.)

After apprehending and investigating Alejandro Carillo and Toribio Raquenio the fiscal, on July 1, 1947, amended the information in this case by dropping John Doe and charging Alejandro Carillo and Toribio Raquenio as principals of the crime of robbery with homicide and with attempted rape and Saturnino Macawile as accessory after the fact.

Simeon Madayag, of 1472 Calavite, La Loma, Quezon City, mentioned by Alejandro Carillo and Toribio Raquenio in their confessions, turned out to be a secret agent of the Department of the Interior, when he went to that Department on July 1, 1947, to surrender, according to him, the .45 caliber pistol which he said had been left with his wife by Alejandro Carillo, he was informed that the Manila Detective Bureau wanted him for investigation. He was immediately taken thereto and asked whether the pistol in question was really in his possession. He answered in the affirmative and then and there surrendered it to Detectives Calazan and Senen.

Said pistol (Exhibit I) and the two empty shells found at the scene of the crime (Exhibits J and J-1) were delivered to the National Bureau of Investigation for test and examination by Ballistics Expert Edgar Bond of that bureau to determine whether the said pistol was the same gun from which the two shells had been fired. Mr. Edgar Bond fired three shots from the pistol Exhibit I in order to obtain therefrom the test shells Exhibits K, K-1, and K-2. He then examined the two sets of shells under a comparison microscope and found from the congruent lines thereof that the two shells Exhibits J and J-1 had been fired from the pistol Exhibit I. The congruences of the two sets of shells are graphically shown in Exhibits L, L-1, and L-2, entitled "Ballistics Microphotographic Chart," prepared by Ballistics Expert Edgar Bond and explained by him during the trial. He also made a written report (Exhibit M) on the result of his ballistics examination, wherein he established the conclusion that the two shells Exhibits J and J-1 were fired from the pistol Exhibit I.

Marcelino Lontok, Jr., one of the offended parties, testified during the trial to the facts set forth in the first two paragraphs of this decision. He also identified the two appellants Alejandro Carillo and Toribio Raquenio as the robbers, saying that it was a moonlit night and that he was able to see their features. He admitted on cross-examination that at first he pointed to the original defendant Saturnino Macawile (in lieu of Alejandro Carillo), but explained: "As you will see from these two accused, there is semblance between the two, specially when Carillon hair was still long and not cropped." He further testified that of the articles taken from him on the

night in question he had been able to recover the watch (Exhibit D) in the manner and under the circumstances narrated in the third paragraph of this decision. He said that he was sure that it was the same watch that had been stolen from him because "just below the secondary dial, on the face of the watch, there is a small crack on the glass," and "in the spring balance on the back there are some scratches."

Simeon Madayag, of 1472 Calavite, La Loma, Quezon City, testified during the trial in substance as follows:

"I know Alejandro Carillo because he used to go to my house once in a while in May and June, 1947. He wanted to court my sister-in-law. I know also Toribio Raquenio because he used to go to my house sometimes with Romy (Alejandro Carillo) and one named Nestor; they used to go there about three times a week. The Japanese pistol Exhibit N was the service pistol issued to me by the Department of the Interior in my capacity as secret agent of said Department, and that pistol was defective. I gave it to my wife and secured another permit for a .45 caliber pistol. On June 4, 1947, that pistol was placed by my wife in her vanity case and put under a drawer of the aparador in my house on Calavite. I did not at any time lend that pistol to Toribio Raquenio. After June 23 or 24 (1947) I delivered that pistol (Exhibit N) to a repair shop. Members of the Detective Bureau went personally to the repair shop to get it, but because they could not get it without my presence I went to get it myself and I gave it to them. That was after I had delivered to the Detective Bureau on July 1 the .45 caliber automatic pistol Exhibit I. Exhibit I was given to my wife Antonieta Salazar by one Romy, according to her, but I was not present when it was given to her.

Antonieta Salazar, 34) married to Simeon Madayag, and residing at 1472 Calavite, Quezon City, testified in substance as follows:

"I know the pistol Exhibit I because that was left in my possession by Romy (pointing to Alejandro Carillo) on June 7, 1947. He told me, 'Mining, I am going to leave this (Exhibit I) to you first because I have to go somewhere.' He did not tell me where he was going at that time. I came to know Alejandro Carillo in May, 1947, when he went to the Funeraria Nacional. According to him he knew my brother-in-law who died. Since then he used to come to our house for a visit. Sometimes he would come alone and at other times he would come with companions. I also know Toribio Raquenio (pointing to the defendant by that name) because he used to be with Romy when he came to the house. I know the Japanese pistol Exhibit N "because this is the revolver that my husband used when he was new in the Department of the Interior." On June 4, 1947, it was in my vanity case which I placed in the drawer under my aparador. Although I received the pistol Exhibit I from Alejandro Carillo on June 7, 1947, I did not report the matter to my husband until June 29 or 30 because he was not at home. I was waiting for the owner to get it. The pistol Exhibit N was taken by the police from the repair shop.

We have heretofore narrated in chronological order the facts and developments of the case as established by the prosecution through the testimony of Detectives Jesus P. Senen, Wenceslao R. Leano, Jose Dimagiba, Leon O. Garcia, and Tomas Calazan, Police Photographer Remigio Abolencia, Ballistics Expert Edgar Bond, and witnesses Marcelino Lontok, Jr., Simeon C. Madayag, and Antonieta Salazar, and through the written statements Exhibits H and F of Alejandro Carillo and Exhibit E of Toribio Raquenio. We shall now relate the evidence for the defense.

Aside from his own testimony, Alejandro Carillo presented only one witness, Narciso Villegas. The latter testified that he was 23 years of age, single, a prisoner at Muntinlupa, convicted of robbery; that while he was detained in the isolation cell in Bilibid Prison, he saw the accused Alejandro Carillo there two months before October 1, 1947 (that is to say, about August 1, 1947); that he (witness) was the one keeping the key to the cells of the prisoners; that it was his duty to search a prisoner for the isolation cell to see whether he had some contraband with him; that when he tried to search the person of Alejandro Carillo, the latter told him that the sides of his body were painful and requested his permission to take off his clothes himself; that witness allowed, him to do so "and when he took

off his clothes I saw something in his body in that the left side of his body and under his chest, left side, was bluish in color. I asked him why his body was black, and he told me, 'I was maltreated by the secret service men.' I allowed him to get inside the isolation cell, telling his companion prisoners to allow him to lie down because he was not feeling well. That is all I can say." On cross-examination he testified that the conversation he had with Carillo was witnessed by the guard who had brought Carillo; that the guard did not attempt to stop him from talking with Carillo "because I was the one in charge of the key and it was necessary that I should search his pockets."

Testifying in his own behalf, Alejandro Carillo declared that on the afternoon of June 4, 1947, he was in Quiapo, Manila, working as a laborer or cargador in the market; that he worked until 9 o'clock in the evening, when he went home and did not go out any more; that he did not know his coaccused Toribio Raquenio until the day the latter was arrested "because the policemen were insisting that I was his companion"; that he did not know anything as to the accusation against him of having robbed and killed Emma Foronda-Abaya on June 4, 1947; that he was not on Aurora Avenue and Pampanga Street, Manila, on June 4, 1947; that he was arrested by the police in June in Tacloban, Leyte; that after his arrest he was ordered by those who arrested him to admit "that case which occurred"; that he did not jet sign any document then; that he signed Exhibit F in Manila; that "they ordered me to sign that document Exhibit F without my knowing its contents, they only told me to sign it"; that he did not give the police the information contained in Exhibit F; that he did not sign Exhibit F voluntarily but was forced to do so; that from Tacloban he had fear of them because they were pointing their revolvers at him.

"Q. They only pointed at you their revolvers?—A. Yes, they pointed a revolver at my stomach and they beat me in the body.

"Q. "Who beat you in the body?—A. Those who arrested me."

He admitted his signature to Exhibit H but claimed that he signed it without knowing its contents and that before signing it they did not read its contents to him. He further testified that he did not know the watch Exhibit D; that he knew the revolver Exhibit I because on June 6 a friend of his named Nestor delivered it to him; that at first he did not want to receive it because it had no license, but that he was afraid of Nestor because he always beat him and for that reason he told Nestor, "Well, I am going to receive this Exhibit I on condition that I shall not use it; I shall keep it"; that when he went to Leyte on June B he did not have the revolver in his possession because he left it with a friend of his who lived in La Loma. He denied having sold the watch Exhibit D to Macawile. He claimed that his acts depicted in the photographs of the re-enactment of the crime, Exhibits B-5, B-8, B-9, B-10, B-11, and B-12, were not voluntary but that he acceded to the wishes of the police because he was afraid of them because they carried long revolvers.

On cross-examination he admitted that the house on Esperanza street where he lived on June 4, 1947, was the same house where Saturnine Macawile lived; that he had lived with Saturnino Macawile less than two years; that it was true that during the Japanese occupation he used to go with Macawile but that he did not live with him in the same house then; that before going to Leyte he entrusted the revolver Exhibit I to a friend of his whom he knew as Aling Tuning; that he delivered said revolver to Aling Tuning although Nestor did not know her "because if I kept that revolver in my possession I possibly would be in bad plight because that revolver had no license."

"Q. If that is true, why did you accept this revolver from Nestor?—A. Because he was in a hurry and he only left this on the table and then left.

"Q. Is that all the explanation you can give?—A. Yes, sir."

He reiterated that on June 4 he went home at 9 o'clock; that he knew it was 9 o'clock because he had many friends in that house and he asked them what time it was.

"Q. Why did you go home very late that night?—A. I went home quite late that night because I entertained myself in the pool.

"Q. What is that pool you are referring to?—A. It is a kind of game. I know how to play it.

"Q. Do you play pool every night?—A. I do not play but only used to see.

"Q. Are you very sure that on June 4, 1947, about 9 o'clock in the evening, you were playing pool?—A. I was not playing, I was only watching those playing pool."

He admitted that after he was brought to the police station the police asked him many questions, but claimed that he was confused because they asked him many things; that he answered them indifferently because he had bad presentiments about his mother and he was confused and did not know what he was saying; that those who asked him questions did not write anything down.

"Q. Did anyone of those who have testified here beat you?—A. None of those who testified here beat me, because I know by face those who maltreated me."

The accused Toribio Raquenio was the only one who testified in his own behalf. He gave his personal circumstances as 37 years of age, single, residing at 55 Main street, Sampaloc, Manila. He declared in substance as follows: He was out of work on June 4, 1947, and was looking for a job then. He did not remember having gone out on June 4, 1947. He did not know the accused Alejandro Carillo, alias Romy. He did not know anything about the accusation against him of having, in company with Alejandro Carillo, held up and robbed Emma Foronda-Abaya and Marcelino Lontok, Jr. He did not remember where he was on June 4, 1947. He was arrested on June 26. The signature on Exhibit E is his. He did not know the contents of Exhibit E; it was not read to him by the police. He signed it because he was maltreated and in proof of that he had a scar on the lower lip. He was maltreated by a detective whom he knew by face but who was not then in court. He was maltreated before he signed Exhibit E; he was kicked, and when he fell on the floor they continued kicking him and he spat blood. He admitted that he knew Simeon Madayag. He did not know whether Simeon Madayag possessed the .38 caliber Japanese Luger. He denied that he ever went with Alejandro Carillo to the house of Simeon Madayag. He did not know whether the contents of Exhibit E are true or not.

On cross-examination he admitted having stayed in America 19 years. He indicated Detective Wenceslao Leano as the one and only one who had maltreated him. He said that after his arrest the police asked him many questions, but that he never answered any of the questions, and that is the reason why "they maltreated me"; that the only question he answered was that about his civil status. He admitted that he is from Cabugao, Ilocos Sur. He also admitted that he has an uncle named Jesus Acosta who lives at 73 Nacar, San Andres. Upon being interrogated by the court, he reiterated that he knew Simeon Madayag and knew where he lived but did not know the number. He admitted having been to the house of Simeon Madayag but that he went there alone for a visit, looking for work.

The accused Saturnino Macawile, testifying in his own behalf, declared that he bought the Bulova watch Exhibit D from Romy (indicating the accused Alejandro Carillo) for P3 on June 5 at 6:30 a.m. at his (witness') store in Quiapo; that he sold it for P10 to one Bidoy; that he did not know that it was a stolen watch.

"Q. Did the detectives employ force or maltreat you before you told them from whom you bought this watch Exhibit D?—A. No, sir."

He said that he knew Alejandro Carillo only by the name Romy; that Romy used to go to his house because he courted someone there, the daughter of his comadre.

Upon the evidence above set forth, Judge Felipe Natividad found the accused Alejandro Carillo guilty beyond reasonable doubt as principal of the crime of robbery with homicide, without any mitigating or aggravating circumstance, and sentenced him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Emma Foronda-Abaya in the sum of P2,000, and to return the stolen articles or their value aggregating P231.40; and the accused Toribio Raquenio guilty beyond reasonable doubt as principal of the crime of against robbery with violence against and intimidation of person, without any mitigating or aggravating circumstance, and sentenced him to suffer an indeterminate penalty of from 4 years and 2 months of prision correccional as minimum to 8 years of prision mayor as maximum and to indemnify, jointly and severally with his coaccused Alejandro Carillo, the offended parties in the sums of P131 and P100.40, respectively. The accused Saturnino Macawile was acquitted on reasonable doubt.

In their joint appeal, Alejandro Carillo and Toribio Raquenio, thru their counsel de oficio, challenge the sufficiency of the evidence to establish their guilt and ask for their acquittal. The Solicitor General, on the other hand, recommends the imposition of the death penalty on the appellant Alejandro Carillo and the increase of the maximum penalty meted out to appellant Toribio Raquenio.

Having heretofore set forth in detail the evidence adduced during the trial, our task in resolving the appeal is reduced to analyzing the chain of direct and circumstantial evidence against the appellants to determine whether there is any missing or defective link which might warrant reversal.

The direct evidence consists of (1) the testimony of the eyewitness Marcelino Lontok, Jr., and (2) the confessions of the accused. The circumstantial evidence consists of (1) the sale by Alejandro Carillo to Saturnino Macawile on the morning of June 5, 1947, of the Bulova watch Exhibit D, of which Marcelino Lontok, Jr., had been robbed the previous evening; (2) the admission by Carillo and Macawile during the trial that they had known each other and had lived in the same house for a long time, thus precluding any possible mistake by Macawile as to the identity of Carillo as the seller of said watch; (3) the .45 caliber pistol Exhibit I, which was conclusively established to be the gun from which the two empty shells Exhibits J and J-1 found at the scene of the crime had been fired; (4) the testimony of the spouses Simeon Madayag and Antonieta Salazar that said pistol was left by Alejandro Carillo with Antonieta Salazar on June 7, 1947, which fact was not denied but indirectly admitted by Alejandro Carillo during the trial; (5) the testimony of the same spouses that the two appellants knew each other and used to frequent the house of said spouses at 1472 Calavite, La Loma, Quezon City; (6) the .38 caliber Japanese Luger pistol Exhibit N, which according to the confession of Toribio Raquenio he took from the house of said spouses and used in committing the crime in question and which said spouses identified during the trial; and (7) the flight of Alejandro Carillo to Tacloban, Leyte, shortly after the commission of the crime. We find no defective link in this strong chain of circumstantial evidence, which dovetails with the chain of direct evidence.

Appellant Carillo hammers on the weakness of the testimony of Marcelino Lontok, Jr., as to his identity, it appearing that said witness at first pointed to Macawile in lieu of Carillo. Considering that Lontok and his companion were held up at night, although with moonlight, and that the robbers were unknown to him, his testimony alone as to their identity would not be sufficient to convict the appellants, for his identification of them under the circumstances could not be absolutely relied upon, as indeed he at first mistook Macawile for Carillo in view of some resemblance between the two. It was, however, undoubtedly a mistake in good faith, not indicative of a will to 'prevaricate and not sufficient to divest his testimony of probatory value as to the identity of the appellants, if we consider it, as we must, together with the rest of the evidence in this case. The trial judge, who saw both Carillo and Macawile and who took Lontok's testimony into consideration, must have been satisfied with Lontok's explanation of his mistake due to the resemblance between the said two accused as pointed out by Lontok during the trial.

The other link of direct evidence is the written confessions of the two appellants before the members of the Detective Bureau. Inasmuch as these confessions were respectively repudiated by the appellants during the trial, we have to examine with caution and care the circumstances under which they were given and the inherent veracity of their contents in relation to appellants' testimony during the trial, to determine whether they had been illegally extorted from them as they claimed. We are not unaware that some officers of the law resort to the illegal and reprehensible tactics of extorting confessions thru violence and intimidation, and we have had occasion to express our condemnation of such tactics. Thus, in the case of *People vs. Ricardo Tipay*, G.R. No. 49014 (March 31, 1944), we said:

"In this noonday of the twentieth century, when criminology and the investigation of crimes have developed into a science in all civilized countries abreast with the progress and the ever-increasing enlightenment of the human race, to force or induce a suspect to incriminate himself thru violence, torture, or trickery is a shameful disgrace—a reversion into the barbarism and the inquisitorial practices of the Dark Ages; and the minions of the law who would still resort to such crude and cruel methods are universally regarded as anachronistic blockheads, who should be immediately lopped off as a cancerous excrescence of the body politic."

The first written confession of appellant Alejandro Carillo is Exhibit II, which was taken by questions and answers in Tagalog by Detective D. Lapiña in the presence of Detective L. O. Garcia and written down by Stenographer D. B. Ferrer between 3:20 and 6:30 p.m. on June 24, 1947, the day after Carillo was arrested in Tacloban, Leyte. Detective Garcia, as a witness for the prosecution, swore during the trial that Carillo answered the questions propounded to him by Detective Diosdado Lapina and voluntarily signed and swore to Exhibit H before Fiscal Villamor after the latter had read and explained its contents to the affiant, it is apparent from Exhibit H that it contains information which was known only to the affiant and which could not have been known before by the investigator: the personal circumstances of the affiant; the places where he had resided before; that at the age of 7 he was confined in Welfareville for theft; that he knew Frank (his coappellant); that he and Frank were in the house at 1472 Calavite, La Loma, Quezon City, about 5 o'clock on June 4, 1947, and that from that house they went together to commit the crime in question; that he was then armed with a 45-caliber pistol and Frank, with a Japanese Luger. At that time he told an untruth when he told the investigator that the .45 caliber automatic pistol he used belonged to Frank and that after the crime he returned it to the latter before they separated. As a matter of fact, it was the revelation made by appellant Carillo in Exhibit H that led the detectives to arrest his coappellant Toribio Raquenio, alias Frank. And after the latter was arrested, Carillo was subjected to further interrogatories by Detective Senen in the presence of Detective Calazan, as shown by Exhibit F, in which Carillo identified Raquenio as the same person to whom he had referred as Frank. It was then that for the first time Carillo revealed the truth that the gun he had used had been left by him in the house of Simeon Madayag at 1472 Calavite and that that gun was his (Carillo's). Again it was thru that information that the detectives recovered the .45 caliber pistol Exhibit I from Madayag.

It will be recalled that before Carillo was arrested in Tacloban, Leyte, on June 23, the detectives entertained the theory that the holdup men were Saturnino Macawile and an unknown individual designated in the original information as John Doe. The detectives did not then know the facts revealed by Carillo for the first time in his confessions Exhibits H and F. We therefore cannot give credence to the insinuation made by Carillo for the first time during the trial of the case that the contents of Exhibits H and F were mere inventions of the detectives. The veracity of the facts set forth in said exhibits, with the exception of the statement made by Carillo in Exhibit H that the 45-caliber pistol belonged to Frank and was returned by him to the latter after the commission of the crime, cannot be doubted. The very falsity of said statement as to the ownership of the pistol, which Carillo subsequently rectified in Exhibit F, is in itself a clear proof that the contents of Exhibits H and F were not a fabrication of the detectives.

No one can doubt the veracity of a statement that turns out to be in conformity with the reality. If a person tells the police that he killed an individual with a revolver after robbing him or his watch and that he buried his victim at a certain place and hid the revolver in another place and delivered the watch to another person, and if the police finds the corpse in the place indicated by the killer and identifies it as that of the victim, and finds the revolver in the other place mentioned by the confessed killer and also recovers the watch from the person to whom the killer said he had delivered it, it would be impossible not to believe the statement of the killer even if he should subsequently deny it. What could not be believed is such denial.

Equally unbelievable is the testimony of Carillo during the trial when at first he said that he signed Exhibits F and H without knowing their contents because the detectives ordered him to do so; then later he gave a stronger reason by saying that he was afraid of the police because they were pointing their revolvers at him; and still later, after being prompted by his counsel, he gave a still stronger reason by saying that they beat him in the body. But on cross-examination, when asked whether any of the detectives who had testified before him had beaten him, he answered that none of them had. He could not point to any particular person as his alleged torturer. He did not even care to corroborate the testimony of his only witness, Narciso Villegas, for the latter's testimony was not in any way referred to by him when he (Carillo) took the witness stand.

The testimony of Narciso Villegas is inherently incredible. In the first place, he was a convict of a crime involving moral turpitude—robbery. In the second place, if as he said he was in the isolation cell, we must assume that he was under disciplinary punishment and could not therefore have been entrusted with the duty of the a trusty such as keeping the keys. Carillo, who was not yet then a convict but a mere detention prisoner, could not have been placed in the isolation cell. And, lastly, the alleged physical examination or inspection made by Convict Villegas, during which he claimed to have found a bluish spot on the chest of Carillo, took place, according to him, about August 1, 1947, that is to say, more than one month after Carillo had signed Exhibits H and F. In any event, even assuming that there was such a bluish spot on Carillo's body, Carillo did not explain or refer to it when he testified.

In this connection it is significant to note that although the detectives at first suspected Saturnino Macawile as the one who had robbed, ravished, and killed Emma Foronda-Abaya, they did not use any force upon or maltreat him to extort a confession from him, according to his own testimony.

We must, therefore, conclude that Carillo's confessions Exhibits H and F were made by him voluntarily and without the employment of force or intimidation on him.

The alibi set up by Carillo as a defense hardly merits any consideration at all. At first he claimed, that he worked in the Quiapo market as a cargador until 9 o'clock in the evening on June 4, 1947. Later, on cross-examination he said that he stayed out late on that day because he was in a poolroora watching the game.

Neither can we believe his testimony that the pistol Exhibit I was delivered to him on June 6 by a friend of his named Nestor. At first he said that he accepted the gun from Nestor although it had no license because he was afraid of Nestor, as the latter always beat him. But on cross-examination he changed that testimony by saying that he accepted the gun from Nestor because the latter was in a hurry "and he only left this on the table and then left."

The conclusion is inescapable from the foregoing analysis of the evidence that it leaves no room for any hypothesis consistent with appellant Alejandro Carillo's innocence. We do not entertain the slightest doubt that he is guilty of the capital offense of robbery with homicide and attempted rape, with which he was charged and duly tried. We shall consider the appropriate penalty later.

With regard to appellant Toribio Raquenio, he did not even care to set up an alibi. He said he did not remember

where he was on June 4, 1947. We find that his guilt has been proved beyond reasonable doubt by his confession Exhibit E; by the testimony of Marcelino Lontok, Jr., who identified him as the robber who held him up at the point of a gun and robbed him; and by the testimony of the spouses Simeon Madayag and Antonieta Salazar. His confession Exhibit E contains information regarding himself that could not have been known to the police. His claim, therefore, that it was a mere invention or fabrication of the police cannot be believed.

Neither can we accept his pretension that he signed said confession because he had been maltreated. At first he said that the detective who had maltreated him was not in court. Later he indicated Detective Wenceslao Leano, who was in court, as the one who had maltreated him. In rebuttal Detective Leano denied that imputation, saying that he was not the one who took the statement of Raquenio and did not take part in his investigation. Exhibit E shows that it was taken by Detective Tomas A. Calazan in the presence of Detective Senen. And Detective Jesus P. Senen testified that Raquenio answered the questions propounded to him by Detective Calaaan and signed the statement voluntarily after having read it.

We likewise, therefore, do not entertain any doubt as to the guilt of this appellant.

Appellant Toribio Raquenio did not participate in the attempted rape and killing of Emma Foronda-Abaya but tried to induce his companion Alejandro Carillo to desist therefrom. The trial court was right in finding him guilty only of robbery with violence against and intimidation of person, which is penalized in paragraph 5 of article 294 of the Revised Penal Code with prision correccional in its maximum to prision mayor in its medium period. However, the trial court erred in not considering the aggravating circumstance of nocturnity, which facilitated the commission of the offense and rendered detection difficult (*People vs. Corpus*, 43 Off.Gaz., 2249).

Therefore, with the only modification that the maximum of the indeterminate penalty imposed should be, as it is hereby, increased to ten years of prision mayor, the sentence as to the appellant Toribio Raquenio is affirmed, with costs.

The appellant Alejandro Carillo is guilty of robbery with homicide as well as of attempted rape. Robbery with homicide is penalized in paragraph 1 of article 294 with reclusion perpetua to death. The trial court erred in not considering the aggravating circumstances of (1) recidivism, said appellant having been convicted twice of robbery; (2) nocturnity, which facilitated the commission of the offense and rendered detection difficult; and (3) abuse of superior strength, considering his sex and the weapon he used in the act which overcame the victim and rendered her unable to defend herself from his savage aggression (*United States vs. Gonsuelo*, 13 Phil. 612). The attempted rape committed by this appellant on the same occasion may be penalized separately, but we think there is no need to do so, and we consider it only as a further aggravation of the offense. There is no mitigating circumstance.

Alejandro Carillo has proved himself to be a dangerous enemy of society. The latter must protect itself from such enemy by taking his life in retribution for his offense and as an example and warning to others. In these days of rampant criminality it should have a salutary effect upon the criminally minded to know that the courts do not shirk their disagreeable duty to impose the death f& penalty in cases where the law so requires.

Conformably to the recommendation of the Solicitor General, we modify the sentence of the trial court as to the appellant Alejandro Carillo y Almadin by imposing, as we hereby impose upon him, the penalty of death, affirming the sentence in all other respects. This sentence shall be executed in accordance with the provisions of articles 81 and 82 of the Revised Penal Code on a date to be fixed by the trial court within thirty days after the return of the record of the case to said court. It is so ordered.

Moran, C. J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

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.