

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WESTRIMUNDO TABAYOYONG ALIAS "WESTRING";
ELIGIO CACAYAN, JULIAN AGUILAR AND FRANCISCO GARLEJO,
DEFENDANTS, ANTONIO BAUTISTA...**

G.R. No. L-31084. May 29, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

In an Information dated May 15, 1967 filed with the Court of First Instance of Pangasinan, Westrimundo Tabayoyong, alias "Westring", Antonio Bautista, alias "Bucot", Antolin Castro, Eligio Cacayan, alias "Cadio" Julian Aguilar, Miguel Begenio, alias "Aning", and Francisco Garlejo, were charged with the crime of murder alleged to have been committed as follows:

"That on or about 21st day of January, 1966, at about 11:30 o'clock in the evening, in the municipality of Manaoag, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with bolo, knives and hard piece of bamboo, conspiring and mutually helping one another, with evident premeditation, abuse of superior strength, treachery, in consideration of a prize or reward and in utter disregard of the respect due the offended party, MARCELO GUICO y JACOB, a Barrio Captain of Barrio Cabilaoan, Manaoag, Pangasinan, and with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and strike with said bolo, knives and hard piece of bamboo MARCELO GUICO Y JACOB thereby inflict-ing upon him wounds and injuries which caused his death.

"That in attacking, assaulting and striking said MARCELO GUICO y JACOB, the above-named accused took advantage of nighttime besides superior strength to insure the success of their acts and plans.

"CONTRARY TO LAW."[1]

Upon arraignment, all of the above-named accused pleaded "not guilty". Before trial commenced, the court, upon petition of the Special Counsel handling the prosecution of the case, discharged the accused Francisco Garlejo from the Information in order that he may be utilized as a government witness.[2] During the progress of the trial, accused Eligio Cacayan who was then released on bail, disappeared and was believed to be dead, while accused Julian Aguilar escaped from jail and was never found again. Thus, the trial continued only as to the other four accused, Westrimundo Tabayoyong, Antolin Castro, Miguel Begenio and Antonio "Bucot" Bautista.[3]

The evidence for the prosecution consisted of the testimonies of: (1) the discharged accused Francisco Garlejo, (2) Dr. Florencio Mangaliman, the Municipal Health Officer of Manaoag, Pangasinan who conducted the necropsy examination on the body of the deceased Marcelo Guico, (3) Mrs. Encarnacion Guico, widow of the deceased, (4) Municipal Judge Marcelino Andrada who conducted the preliminary investigation, and the autopsy report (Exhibit "A"), photographs of the victim after his death (Exhibits "B" to "B-1-b"), the extra-judicial statements of Francisco Garlejo (Exhibit "C"), Julian Aguilar (Exhibit "D") and Eligio Cacayan (Exhibit "E"), and the transcript of the second stage of the hearing during the preliminary investigation (Exhibit "F").

The substance of the testimony of the principal witness for the prosecution, former accused Francisco Garlejo, is summarized by the lower court, thus:

"x x x In the night of January 21, 1966, he, Eligio Cacayan, Julian Aguilar, Antolin Castro, Miguel Begenio and Antonio 'Bucot' Bautista killed Marcelo Guico in Bo. Cabilaoan, Manaoag, Pangasinan. He declared that they killed Marcelo Guico at the instance of the accused Westrimundo Tabayoyong who pro-mised them a reward of P1,000.00 after killing Marcelo Guico. According to this witness it all began one late afternoon in January, 1966, when he and the accused Julian Aguilar and Eligio Cacayan were together, walking in a barrio road of Inamotan, Manaoag, Pangasinan, which adjoins barrio Caman-tilas of Urdaneta, Pangasinan, the four other accused, Westrimundo Tabayoyong, Antolin Castro, Miguel Begenio and Antonio 'Bucot' Bautista arrived and approached the witness and his companions. The accused Westrimundo Tabayoyong greeted them by saying: 'So you are here.' In that occasion, Westrimundo Tabayoyong proposed to them to kill Marcelo Guico, Bo. Captain of Cabilaoan, Manaoag, Pangasinan, offering to pay them P1,000.00 if they succeeded. The said witness declared that in the conversations that day, the accused Westrimundo Tabayoyong and Antonio 'Bucot' Bautista did most of the talking. Knowing that the proposal was a bad one, the witness said that he and his companions did not agree. Before they separated, however, Westrimundo Tabayoyong allegedly told the witness and his two companions to think it over and to be at the same place on another day to give their decision.

"The witness and his two companions went to the same place on the designated day and there they met again their four co-accused. Altho the proposal was renewed, the witness and his companions did not agree. So the latter were told to be at the same place on another day designated for them to talk over the proposal some more. On this third meeting when the witness and his companions hesitated to agree to the proposal of Westrimundo Tabayoyong, the accused Antonio 'Bucot' Bautista forced them to accept the said proposal by threatening them with bodily harm if they did not agree. Before they parted the witness and his companions were told to meet with their co-accused once more so that they would know the other details of their plan to kill Marcelo Guico. And so, about three days before the execution of their agreement, all the accused met on the same place and the witness and his companions were told to gather in the house of the accused Eligio Cacayan in the afternoon of January 21, 1969 (sic), where the other accused would meet them.

"In the afternoon of that day, the accused, Julian Aguilar passed for the witness and, together, they went to the house of the accused Eligio Cacayan in Bo. Barrientos, Manaoag, Pangasinan. When they arrived there Eligio Cacayan told them that their co-conspirators were not yet in. After sometime, however, the accused Antolin Castro, Miguel Begenio and Antonio 'Bucot' Bautista arrived. Around seven o'clock that evening all six of them proceeded to the house of the accused Antonio 'Bucot' Bautista in Bo. Cabilaoan, also in Manaoag, Pangasinan. On the way they stopped by a small store owned by a certain Sito Escritor where Antonio 'Bucot' Bautista bought four bottles of wine. There they drank three of the four bottles and moved on. On their way they met the accused Westrimundo Tabayoyong who reminded them that if they succeeded in killing Marcelo Guico he would pay them P1,000.00. When they reached the house of Antonio 'Bucot' Bautista the latter served them dinner and let them drink the fourth bottle of wine which was left of the four bottles they got from the store of Sito Escritor. Then, Antonio 'Bucot' Bautista told them that it was time to go. They proceeded to Bo. Cabilaoan. At a certain point in the barrio road of Cabilaoan Antonio 'Bucot' Bautista stopped them and told them that there they would wait for their intended victim, Marcelo Guico. The time was between eight and nine o'clock that night.

"They sat by the road side and waited. About two and a half hours later, they saw a man riding on a bicycle with lights coming down the road. Antonio 'Bucot' Bautista stopped him. The man was Marcelo Guico, their intended victim. Antonio 'Bucot' Bautista held him by pointing a gun at him. Then he thrust a bamboo club to Eligio Cacayan and ordered: 'Club him.' Marcelo Guico pleaded for his life saying: 'Please do not kill me for the sake of my children.' Eligio Cacayan hesitated but because he feared Antonio 'Bucot' Bautista, he got the bamboo club and struck Marcelo Guico at the back of the latter's head. The victim was thrown towards

Antonio 'Bucot' Bautista and grappled with the latter. Antonio 'Bucot' Bautista ordered his companions to hold him. Miguel Begenio went behind the victim and held him by the legs. Antolin Castro held one hand of the victim and the witness helped also by holding the other hand of Marcelo Guico. Antonio 'Bucot' Bautista then got the bamboo club from Eligio Cacayan and struck the victim's head at the back. Marcelo Guico put his right hand on his head just as Antonio 'Bucot' Bautista hit him anew right where the victim placed his hand. The victim became limp and he was dropped on the ground. Antonio 'Bucot' Bautista drew a bolo which he carried by his side, held the victim by the head and bolowed him several times slashing his neck and hacking him on the head and face. Then he gave the bolo to Eligio Cacayan and ordered him to do likewise. Eligio Cacayan, out of fear, hacked and slashed the victim on the face. Antonio 'Bucot' Bautista, Miguel Begenio and Antolin Castro pulled the deceased and deposited him by the roadside while Julian Aguilar took the victim's bicycle farther down the road. Then Antonio 'Bucot' Bautista ordered them to go home, with assurance to pay them later their share of the P1,000.00 promised to them by Westrimundo Tabayo-yong. The foul deed was all over before 11:30 o'clock that night.'[4]

The post-mortem findings of Dr. Florencio Mangaliman showed that the deceased sustained the following injuries:

1. A mortal slash wound about 10-1/2 inches long across the neck just above the Adam's apple, from the left side of the neck to the right side, about 2 inches wide and about 5 inches deep, severing the cervical bone, by means of a sharp instrument, thus injuring the spinal cord.
2. A slash wound about 10 inches long from the lower eyelid of the left eye, cutting the bridge of the nose and the zygomatic or cheek bone of the right side of the face, about 1 inch wide and about 3 inches deep, by means of a sharp instrument.
3. Another cut wound about 8 inches long from the vicinity of the right nostril to the center of the nape, right side.
4. A cut wound at the level of the mouth located near its outer canthus, right side, cutting the right lower jaw and connected to the first wound above mentioned.
5. A shattered lacerated wound, star shaped, over the occipital region of the head about 3 inches long and about 2 inches wide, produced by a blunt instrument.
6. Another lacerated wound about 1 inch long just behind the right ear or mastoid area.
7. Another lacerated wound of about 1-1/2 inches long, located about 2 inches above the right ear.
8. A compound fracture with laceration of the terminal phalanx bone of the right little finger, by a blunt instrument.
9. A chop wound somewhat circular in shape, about 1 inch in diameter, over the first knuckle of the middle finger of the right hand, produced by a sharp instrument.[5]

The necropsy report further stated that the cause of death was "an irreversible shock due to the injury of the spinal cord and vertebrae of the neck, cerebral concussion and profuse bleeding." [6] At the witness stand, Dr. Florencio Mangaliman testified that wounds nos. 1, 2, 3 and 4 located at the face and neck could have been caused by a bolo; wound no. 5 in the occipital region or at the back of the head could have been caused by wood or bamboo; wounds nos. 6 and 7 and fracture no. 8 could have been caused by a blunt instrument; and wound no. 9 was caused by chopping.[7]

The widow of the deceased, Mrs. Encarnacion Guico, testified inter alia: that the accused Antolin Castro was the defeated opponent of her late husband Marcelo Guico for the office of Barrio Captain of Bo. Cabilaoan, Manaoag, Pangasinan; that she did not know the party affiliation of her husband, but since his opponent Castro was a

Nacionalista, then the deceased could have belonged to the Liberal Party; that as Barrio Captain elected in 1963, the deceased was very strict in the enforcement of regulations against stealing, gambling and cattle rustling, thus he made many enemies; that several times during his lifetime, the deceased told her (Mrs. Guico) that he had apprehended and issued warnings to the accused Antolin Castro, Antonio Bautista and Miguel Begenio several times for their gambling activities; that on one occasion, she was present when the accused Antolin Castro and Antonio Bautista were investigated for gambling (playing cards) but the case was settled amicably after they were warned by the deceased not to play gambling again; and, that the wife of accused Miguel Begenio was her first cousin. Mrs. Guico also stated that her deceased husband mentioned to her that he had an altercation with the accused Westrimundo Tabayoyong during which the latter almost shot the deceased on account of his strictness in enforcing regulations.[8]

The then Municipal Judge of Manaoag, Pangasinan, Marcelino Andrada, who conducted the preliminary investigation of the three original accused, namely, Francisco Garlejo, Julian Aguilar and Eligio Cacayan, testified that he personally typed the statements given by said accused which the witness identified as Exhibits "C", "D" and "E", respectively. Judge Andrada also identified the records of his preliminary investigation presented in the lower Court as Exhibit "F". He further stated that during the preliminary investigation, he purposely planted one Bernabe Manlepes[9] the janitor of the Mayor of the town, whom former accused Francisco Garlejo pointed to as one of his companions in the execution of the gruesome murder. He, however, also admitted that said Bernabe Manlepes looked very much like the real accused Miguel Begenio.[10]

To the accusation filed against them, the accused Westrimundo Tabayoyong, Antonio "Bucot" Bautista, Antolin Castro and Miguel Begenio, with respect to whom the trial proceeded, all interposed the defense of alibi, independently of each other as follows:

Accused Westrimundo Tabayoyong alleged that on the night the heinous crime was committed, he was in the company of Assistant Fiscal Leon Zabala, former Vice-Mayor Legaspi, Atty. Ireneo Salinas, one Atty. Aquino and then Governor Conrado Estrella, at the Carbungco Restaurant in Quezon City where the latter invited and took them to dinner. The said accused claimed that he left Pangasinan for Manila on January 19, 1966 with Zabala, Legaspi and Salinas, and returned to Pangasinan only on January 22, 1966, or the day after Marcelo Guico was killed.[11] Corroborating the allegations of Tabayoyong was the testimony of his witness, Assistant Fiscal Leon Zabala.[12]

Accused Antonio "Bucot" Bautista accounted for his whereabouts on the fateful night of the murder as follows: On January 19, 1966, he went to Barrio Toledo, Ramos, Tarlac to collect the debt of P50.00 owed to him by his uncle, Eusebio Melegrito, and stayed in that place up to January 22, 1966.[13] Melegrito, who was presented as a defense witness, confirmed the testimony of Bucot Bautista. This witness also averred that the accused Bautista had to stay for three days in Toledo because he (Melegrito) was able to sell his palay only on January 21, 1966 and paid Bautista only on that night, so that the latter left for Pangasinan only at dawn of the following day, January 22, 1966. This witness further declared that during the three days that the accused Bautista waited to be paid, he helped the witness in the piling of his palay, and never left the witness' house in Bo. Toledo.[14]

Accused Antolin Castro testified that from January 13 to January 20, 1966, he was in Manila following up his application papers in connection with his intended trip to Vietnam.[15] He presented his uncle-in-law, Simon Bilog, who claimed to have visited the accused Castro and conversed with him in the evening of January 20, 1966 up to midnight.[16] The same accused, however, failed to account for his whereabouts and activities on the night of the murder, and when interrogated on his alleged participation in the conspiracy to kill Marcelo Guico, he merely denied having any knowledge of it and averred that the accusation against him was untrue.[17]

Lastly, accused Miguel Begenio testified that in the evening of January 21, 1966, he was in his own house at Barrio Cabilaoan, Manaoag, Pangasinan sleeping with his wife and children, and that he learned of the death of Marcelo Guico only on the next day, January 22, 1966. He further testified that he was even present during the embalming of the deceased, and together with his wife, he attended for several nights the vigil over the remains of the murdered man and the nightly prayers after the burial with the family of deceased, the latter's widow being a first cousin of his (Begenio's) wife.[18]

After trial, judgment was rendered on July 24, 1969, the dispositive portion of which reads:

"WHEREFORE, the Court hereby finds the accused WESTRIMUNDO TABAYOYONG not guilty of the crime charged, his guilt not having been proven beyond reasonable doubt. The bond he has filed for his provisional liberty is hereby cancelled.

"The accused Antolin Castro, Miguel Begenio and Antonio 'Bucot' Bautista are hereby found to have conspired and caused the death of Marcelo Guico and are, therefore, guilty of the crime of murder as charged in the information. In the commission of the said offense, the aggravating circumstances of:

- 1) that the crime was committed in consideration of a price or reward, or at least a promise thereof;
- 2) abuse of superior strength;
- 3) nighttime, purposely sought to facilitate its commission; and
- 4) that the wrong done was deliberately augmented by causing other wrongs not necessary for its commission when, after the victim was killed, the accused deliberately slashed his throat and sliced his face several times on several places,

were found to be present. No mitigating circumstance has been offered by the accused. Pursuant to the provisions of the Revised Penal Code, the said accused, each and all of them, are hereby sentenced to death. They are likewise ordered to indemnify the heirs of the deceased Marcelo Guico in the amount of P12,000.00. May God have mercy on their souls.

"SO ORDERED."[19]

On August 29, 1969, the accused Miguel Begenio moved for reconsideration and/or new trial on the grounds of: (1) insufficiency of evidence to sustain a finding of his guilt beyond reasonable doubt; and (2) newly discovered evidence. The motion, however, was denied on September 9, 1969.

On October 13, 1969, the records of the case were elevated to Us for an automatic review of the death penalty imposed on the accused Antolin Castro, Miguel Begenio and Antonio "Bucot" Bautista, herein appellants, who have filed their respective briefs.

Appellant Miguel Begenio raises the following Assignment of Errors:

- I. The lower Court erred in accepting the testimony of the discharged accused Francisco Garlejo without any convincing corroborative evidence.
- II. The lower Court erred in finding that the evidence established a positive identification of the accused Miguel Begenio.
- III. The lower Court erred in denying the motion for new trial on the ground of newly discovered evidence.
- IV. The lower Court erred in not accepting the defense of alibi interposed by the accused Miguel Begenio.

Appellant Antonio Bautista alias "Bucot" makes the following Assignment of Errors:

I. The trial Court erred in attaching full complete and absolute credence to the testimonies of Francisco Garlejo the liberated accused turned witness for the prosecution, against the herein defendant-appellant Antonio Bautista, notwithstanding that, aside from coming from a polluted source, his testimonies were so apparently forced, unreliable, uncorroborated and contrary to the common sense and the ordinary course of things.

II. The trial Court erred in attaching any more significance, weight or value to the rest of the testimony of Francisco Garlejo against the herein appellant, after having rightly and correctly found, held and dismissed as mere "second thought" and "someone else's idea not Garlejo's" those portions thereof against the accused Westrimundo Tabayoyong.

III. The trial Court erred in finding and holding that there was sufficient motive for the appellant to commit the cold-blooded murder as charged in the information.

IV. The trial Court erred in completely disregarding and in not giving any credit, weight or value to the testimony of the appellant to the effect that, at the time of the incident, he was in Toledo, Ramos, Tarlac, in the house of his uncle Eusebio Melegrito, who corroborated his testimony simply on the ground that, in the words of the trial court itself, "It is too good and too perfect to be true," a conclusion which is not only biased, unjust, unreasonable and apparently malicious, but also absolutely without any real basis in fact, in evidence and in law.

V. The trial Court erred in not declaring the appellant absolutely innocent of the charge and, accordingly, in not ordering his complete and absolute acquittal for the failure of the prosecution to prove his guilt beyond all reasonable doubt.

Appellant Antolin Castro interposes the following Assignment of Errors:

I. The trial Court erred in giving any weight to the testimony of Francisco Garlejo.

II. The trial Court erred in not acquitting Antolin Castro in the face of a reasonable doubt in the guilt, if any, of herein appellant.

A perusal of the foregoing assignments of errors shows that a common error is assigned, that is, that the trial Court erred in according credence to the testimony of the accused-turned-State-witness Francisco Garlejo. Herein appellants Miguel Begenio, Antonio "Bucot" Bautista and Antolin Castro join together in seeking to discredit and cast doubt on the testimony of the aforementioned discharged accused and in assailing the latter's credibility. At this point, it is important to mention the significant fact that in convicting herein appellants and sentencing them to death, the trial Court relied heavily and principally, if not solely, on the testimony of Garlejo. For purposes of this automatic review, therefore, it is imperative that Garlejo's testimony be carefully studied and meticulously scrutinized.

The main thrust of the arguments of herein appellants in support of their common assigned error is that Garlejo's testimony comes from a polluted source and the same was not validly and convincingly corroborated in any of its material points by any other witness or witnesses, nor by any other evidence for the prosecution, hence it cannot and should not be legally accepted and made the basis for the imposition of the supreme penalty of death.

We find the contention meritorious. However, before delving into the merits of appellants' arguments, a brief discussion on the pertinent rules and applicable jurisprudence governing the discharge of an accused to become a state witness is in order.

In allowing the discharge of a defendant who is a participes criminis to become a witness for the prosecution and against his co-defendants, Rule 119 of the Revised Rules of Court provides:

"Sec. 9. Discharge of one of several defendants to be witness for the prosecution.- When two or more persons

are charged with the commission of a certain offense, the competent court, at any time before they have entered upon their defense, may direct one or more of them to be discharged with the latter's consent that he or they may be witnesses for the government when in the judgment of the court:

- (a) There is absolute necessity for the testimony of the defendant whose discharge is requested;
- (b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said defendant;
- (c) The testimony of said defendant can be substantially corroborated in its material points;
- (d) Said defendant does not appear to be the most guilty;
- (e) Said defendant has not at any time been convicted of any offense involving moral turpitude."

A competent court within the above section means the court before which the trial is held.[20] The discharge of an accused who may turn a state witness is expressly left to the sound discretion of the trial court which has the exclusive responsibility to see that the conditions prescribed by the rule exist.[21] A discharge amounts to an acquittal and is a bar to future prosecution for the same offense, unless the released defendant fails or refuses to testify against the other remaining accused,[22] and such failure is attributable to the former's will or fault.[23]

Nevertheless, it should be remembered that the testimony of a discharged defendant, though admissible, is still subject to the tests on credibility as any other testimonial evidence. Thus, although an order of discharge of an accused issued by the trial Court may raise a presumption that all the requisites for its issuance in fact exist, and therefore that the discharge is in order, the same Court is not duty bound to believe the testimony of the discharged defendant and pronounce a judgment of conviction against the remaining accused merely on the strength of such testimony. The Court must be satisfied that the State evidence consisting of the testimony of a liberated participes criminis is credible.

Furthermore, it is also a well-settled rule that the testimony of a self-confessed accomplice or co-conspirator imputing the blame for the killing and implicating his co-accused cannot by itself and without corroboration, be considered as proof to a moral certainty that the latter had committed or participated in the commission of the crime. Thus it is required that the testimony be substantially corroborated by other evidence in all its material points.

"The true doctrine which should govern the testimony of accomplices, or what may be variously termed principals, confederates, or conspirators, is not in doubt. The evidence of accomplices 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. Even then, however, the defendant may be convicted upon the unsupported evidence of an accomplice. If corroborated absolutely or even to such an extent as is indicative of trustworthiness, the testimony of the accomplice is sufficient to warrant a conviction. x x x

"To quote from one of many decisions of this court, which concerns both the credibility of witnesses as determined by the trial court and the competency of testimony by an accomplice, we turn to the case of *The United States vs. Ambrosio and Falsario* (1910, 17 Phil., 295), wherein it is said:

"It is unquestionably true that the testimony of an accomplice must be taken with great care and caution. It must be assayed and weighed with scrupulous care. The corroborating testimony must be strong and convincing. It is also true, however, that when the testimony of an accomplice is corroborated by unimpeachable testimony and by strong circumstances, it may be given its due weight and force against the person in regard to whom it is presented. x x x"[24]

"Counsel for the appellants assigns as error the action of the trial court in dis-missing the information as to some of those who were included in the same charge upon which they were convicted and permitting the Government to make use of the persons thus discharged as witnesses; having ad-mitted their guilt of the crime of which appellants were convicted, their evi-dence should not have been taken into consideration. While it is true that the evidence of witnesses of this cha-racter is subject to the gravest suspicion and, taken by itself, might not be sufficient to justify a conviction, nevertheless, the proceeding subjected to is specifically authorized x x x; and in this case the evidence offered by these witnesses were substantiated by that of many others, both as to the existence of the band of brigands and the connection of the accused with the same, and there was no error in the proceedings prejudicial to the interests of the accused."[25]

"x x x The witnesses who testified were those released from prosecution for that purpose. Such testimony, while under proper circumstances entirely acceptable, is at the outset always subject to suspicion and it requires only very little credible evidence to ripen that suspicion into a certainty."[26]

"It is elementary law that a defendant in a criminal action cannot be convicted on the evidence of an accom-lice only, and that to sustain such a conviction, there must be other evidence corroborating that of the accomplice, which tends to show the guilt of the defendant."[27]

"x x x But this witness was evi-dently a party in the conspiracy and his testimony should not be accepted without corroboration, of which there is none; for it is a well recognized rule that the testimony of one of several conspira-tors should not be accepted, as against his fellows, without some corroboration. This is especially applicable in a situation where the facts testified to would, if fully accepted, necessarily result in the imposition of the death penalty."[28]

"Defendant and appellant Rufo Dizon in this case complains that he was convicted by the lower court, mainly on the strength of the testimony of his cousin and co-accused Tomas Dizon. In this jurisdiction, a co-accused or a co-defendant who has been found guilty or innocent in the same case, is always a competent witness for, or against, any of his co-accused (United States vs. Grant and Kennedy, 18 Phil., 122, 170). And it has even been held that the uncorroborated testimony of a co-accused, when satisfactory and convincing, may be the basis for a judgment of convic-tion (United States vs. Wayne Shoup, 35 Phil. 56; United States vs. Remigio, 37 Phil. 610); although the better rule is that to serve as a legal basis for conviction, the testimony of an accomplice must always be corroborated by some of other witness or evidence (People vs. Asinas, 53 Phil. 59; People vs. Bantagan, 54 Phil. 834). And the testimony of defendant Tomas Dizon, a cousin of herein defendant and appellant, as a witness for the prosecution, as to the taking of the carabaos in question from the municipality of Labrador to the muni-cipality of Mabini, where defendants dis-posed of them, has been fully corroborated by said witness Domingo Victorio and by the chief of police and the justice of the peace, who testified as to the admissions made by herein defendant and appellant as to their taking and disposition of the carabaos in question, and his plea of guilty."[29]

"And although it is true that the dec-larations of an accomplice should be taken with caution, coming as they do from a polluted source, we are satisfied from a reading of the whole record that his version, corroborated on important points by the circumstances disclosed, may be made the basis or one of the bases of a judgment of conviction. The contention is not true that the Faltados are convicted 'solely and exclusively on the strength of the testimony' of Aquilino Agno. They were identified among others by the offended parties, Angel Biscocho, Raymunda Perez and Silveria Biscocho."[30]

"x x x Such testimony may warrant conviction if corroborated to such an extent that its trustworthiness becomes manifest (People vs. Riparip, 86 Phil. 526; 47 Off. Gaz. (12th Supp.) 159.). In the present case, Tomas Carandang's testimony finds ample corroboration in the written confessions of Eugenio Men-doza and Eliseo Carandang, as well as in that of Modesto Leviste, who confirmed the truth of their contents in open court."[31]

The requirements of credibility and corroboration in material points apply with greater reason to the testimony of a defendant discharged under Rule 119, section 9 above-quoted considering that the condition of a discharge is that the liberated defendant should testify against his former co-defendants. As succinctly elucidated in the case of *Bernardo vs. Del Rosario*[32]:

"When a defendant is discharged from the information, a contract is entered between him and the State. The discharge will be secured if the defendant will honestly and fairly make a full disclosure of the crime. It is incumbent upon him to keep his part of the contract if he hopes to receive the promised immunity; and if his testimony is corrupt or his disclosure is only partial, he gains nothing but forfeits his rights under the contract (15 Am. Jur. sec. 32, p. 17; U.S. v. Grant & Kennedy, 18 Phil. 122; V. Francisco's Rules of Court, par. II, p. 330, Rev. Ed.). Courts should not give a premium to a culprit who worked himself into gaining his acquittal, upon a deception and a contumacious disregard of an agreement validly entered into."

Thus, "(i)f the testimony of the accomplice is corrupt or his disclosure is only partial, he gains nothing but forfeits his right to exemption." [33] Stated otherwise, the benefits of acquittal and freedom from further prosecution may be enjoyed fully and completely by a discharged defendant only if he testifies for the prosecution and against the rest of the accused. "(I)t is a notorious fact in human nature that a culprit, confessing a crime, is likely to put the blame on others rather than himself. Even though a court may well credit the statement of such a witness that other particular persons were engaged in the crime, it is unsafe to accept without corroborating evidence, his statements concerning the relative blame to be attached to different members of his gang." [34] It is for this reason that the Rules of Court require that several conditions be met before an accused may be discharged to act as a government witness. The very nature of a discharge makes it more imperative that the testimony of a discharged defendant be received with utmost care, caution and circumspection.

Guided by the principles laid down by the law and jurisprudence set forth above, We shall now proceed to consider the facts and circumstances at bar.

There is no question as to the correctness of the premise of appellants' contention that the testimony of Garlejo comes from a polluted source. We fully agree. As earlier stated, Garlejo was one of the original defendants in this murder case, hence one of those whom the Municipal Judge who conducted the preliminary investigation found reasonable ground to believe was guilty of the crime charged. Not only that. This State witness also unconditionally, unmistakably and voluntarily admitted his participation in the conspiracy to commit the murder and the actual killing of the deceased Marcelo Guico, both in the preliminary investigation, as evidenced by his Extrajudicial Statement (Exhibit "C") and the record of the proceedings of said investigation (Exhibit "F"), and during the trial itself, when he was presented as the prosecution's star witness. His testimony is, therefore, regarded as the testimony given by an accomplice or co-conspirator.

Alerted by this fact, the next inquiry is whether Garlejo's testimony withstands the test of credibility. We hold in the negative. Even the lower Court was not absolute in giving credence to the whole testimony of Garlejo. The decision under review states:

"x x x The principal evidence laid against Westrimundo Tabayoyong is found in the testimony of Francisco Garlejo. This witness testified that altho he used to see the accused Westrimundo Tabayoyong on several campaign meetings, he and the accused were never acquainted and have never spoken together until one day in early January, 1966, while the witness and Eligio Cacayan and Julian Aguilar were walking on the roadside in Bo. Inamotan, Manaoag, Pangasinan, Westrimundo Tabayoyong, in company with Antolin Castro, Miguel Begenio and Antonio "Bucot" Bautista, allegedly accosted them, Westrimundo Tabayoyong saying to them: 'So you are here.' Right on that occasion this witness testified that Westrimundo Tabayoyong proposed to them the killing of Marcelo Guico for the consideration of P1,000.00. This story is hard to believe. It could not be imagined how Westrimundo Tabayoyong, a municipal councilor and budding politician could propose to

people he has never known before and whom he was meeting for the first time, right then and there by the roadside, the liquidation of a barrio captain. Francisco Garlejo testified that he and his companions have met with Westrimundo Tabayoyong and also his companions three times more afterwards, and in all these meetings Westrimundo Tabayoyong has proposed to them the liquidation of Marcelo Guico for reward. If we have to stretch our imagination to believe Francisco Garlejo's testimony on this point, no matter how stupid Westrimundo Tabayoyong would be, the Court cannot just believe that he would himself personally propose to people he was meeting for the first time the killing of Marcelo Guico. Matters of this kind are not done except in secrecy and only after the proponent has the confidence of the persons to whom he makes the proposal." [35]

We agree with the trial court's holding that Francisco Garlejo's testimony to the effect that Westrimundo Tabayoyong proposed and was the master-mind in the killing of the victim Marcelo Guico by offering a reward of P1,000 to all the accused is inherently improbable, and accordingly, We find as justified the acquittal of the accused Tabayoyong based on the ground that, in the words of the Court, "(i)ndependent of Westrimundo Tabayoyong weak defense of alibi, the latter can not be convicted because the evidence given against him was weak, unreliable and even unbelievable. No motive was given by the prosecution for Westrimundo Tabayoyong to wish the killing of Marcelo Guico. No evidence was given why he should pay P1,000.00 to have Marcelo Guico killed. It is not on the weakness of an accused's alibi that he should be convicted but it should be on the showing beyond reasonable doubt that he is guilty (upon which) a conviction must be made." (CFI Decision, p. 47, Records).

The reasoning for Tabayoyong's acquittal however was ignored or brushed aside by the Court in convicting the three remaining accused Antonio Bautista, Antolin Castro and Miguel Begenio. For while the trial court acquitted the accused Tabayoyong because it refused to give credence to the evidence given by the discharge defendant Francisco Garlejo as Tabayoyong's alleged participation in the conspiracy to commit the murder, the said Court nevertheless convicted the remaining three accused on the very same testimony of the defendant Garlejo. Rationalizing its decision of conviction, the Court said:

"But altho the testimony of Francisco Garlejo on the conspiracy allegedly broached to them by Westrimundo Tabayoyong were to be detached from the facts in this case, this does not impair the testimony of Garlejo against the other accused. For, as this Court has already observed, implicating Westrimundo Tabayoyong appears more to be some one else's idea than Garlejo's. And, as also observed earlier in this decision, the more probable time a conspiracy to kill Marcelo Guico was made was in the afternoon of January 21, 1966, either in the house of Eligio Cacayan or in the house of Antonio "Bucot" Bautista. The Court recalls that on that day, Julian Aguilar picked up Francisco Garlejo from his house and together they went to the house of Eligio Cacayan. Julian Aguilar was with a guitar and thought they might do some serenading on that night (Exhibit "D"). It is therefore clear that murder was not in their minds. But Francisco Garlejo in his pre-liminary investigation stated that in the house of Antonio "Bucot" Bautista that evening, after they were wine and fed, the agreement to kill Marcelo Guico was 'cooked'. In that occasion all the accused, Westrimundo Tabayoyong excepted, were present. While this finding may perhaps affect the credibility of Francisco Garlejo, it still remains believable considering that this Court finds this charge reconcilable with probability and the truth." (CFI Decision, pp. 48-49, Records).

In convicting the accused Antolin Castro, the trial court said:

"Evidence exists that this accused was the rival of the deceased in the election of a barrio captain. He lost to the deceased for this position. The next election of a barrio captain was coming up. This is a plausible cause to make the accused want the deceased eliminated. Evidence also exists that this accused and Miguel Begenio and Antonio "Bucot" Bautista were seen several times by the witness Francisco Garlejo in gambling dens and were also connected with thefts in the neighborhood. The wife of the deceased testified that her deceased

husband as barrio captain has been quite strict against gambling and cattle rustling. She has testified that Antolin Castro, Miguel Begenio and Antonio "Bucot" Bautista had in fact been apprehended by the deceased and were released only after warning them against a repeated violation of law. To cap it all, the accused was positively identified as one of those who were present and who cooperated when Marcelo Guico was mercilessly murdered. His alibi that on January 20, 1966, he arrived from Manila where he worked out his travel papers for Vietnam and that his relatives and his father-in-law visited him and stayed with him until midnight of that day, did not make an accounting of his whereabouts on the day and in the night of the murder of Marcelo Guico.

However, Francisco Garlejo positively tagged him as one of those who arrived in the house of Eligio Cacayan in the afternoon of January 21, 1966, went with them to the house of Antonio "Bucot" Bautista, drank wine with them along the way and was with them when they left the house of Antonio "Bucot" Bautista to that part of the barrio road in Cabilaoan where they waited for almost two hours for the deceased. Francisco Garlejo also positively testified that when Marcelo Guico was being murdered the accused Antolin Castro gave aid by holding the deceased Marcelo Guico." (CFI Decision, pp. 49-51, Records).

In the case of the accused Miguel Begenio his conviction by the trial court is reasoned out in the decision under review as follows:

"In the case of Miguel Begenio after making a lame denial of his implication by Francisco Garlejo, he alleged that on the night Marcelo Guido was killed he and his family went to sleep at 8:00 o'clock. He came to know of the death of Marcelo Guico only the following morning when he followed people who went to see the body of the deceased which was lying by the roadside. He also said that his wife and the wife of the deceased are second cousins that he watched the embalming of the body of Marcelo Guico and attended the vigil of the deceased. Beyond saying that he did not know the witness Francisco Garlejo and the accused Eligio Cacayan and Julian Aguilar before they were accused together in this case, he did not have explanation to offer why he was implicated in so serious an offense which carries the penalty of death. Close at he claimed to be to the widow of Marcelo Guico, he never denied to her his alleged participation in the killing of her husband or asked her why he was ever accused of the same. This circumstance is quite unnatural because if he was inno-cent the usual thing for him to have done was to remonstrate with the deceased, deny-ing his alleged participation therein and asked why he was ever implicated in the murder of Marcelo Guico. Unfortunately, he was likewise identified to be with the group that ambushed and murdered Marcelo Guico. Even when he was not in the court-room when the Municipal Judge of Urdaneta was conducting the preliminary investigation of this case, the witness Francisco Garlejo readily pointed to the one in the court, admittedly planted therein by the judge to test the witness, who was strikingly similar in appearance with the accused Miguel Begenio, as one of the murderers of Marcelo Guico. This spontaneous identification of someone who looked very much like Miguel Begenio convinced this Court that the accused was one of the plotters and was there on the road when Marcelo Guico was killed. Miguel Begenio like his co-accused does not only belong to but is an assistant auditor of the party against which the deceased campaigned and won as a barrio captain. Altho he claimed he was in good terms with the widow of the deceased and attended the vigil for the latter, he has never talked with the said widow about the death of her husband or told her of his vaunted innocence. He has not rebutted the testimony given against him by the widow of the deceased that he, in company with his co-accused Antolin Castro and Antonio "Bucot" Bautista, was on several occasions apprehended by the deceased for gambling and warned against repeated violations of the law. Finally, the Court cannot find any explanation, unless it was true why Francisco Garlejo in his preliminary investigation and in the court charged the accused Miguel Begenio as a co-conspirator and co-principal in murdering Marcelo Guico, a very serious offense which carries with it the penalty of death. When Miguel Begenio, denied that he never knew Francisco Garlejo, he practically affirmed the truth of the testimony of Francisco Garlejo because it is inconceivable that the latter should testify against the former if they did not know each other at all." (CFI Decision, pp. 51-53, Records).

As to the accused Antonio Bautista, the Court after discrediting his alibi, relied on "the fact that Francisco Garlejo

unmistakably placed him in the scene of the killing," so his defense of alibi becomes weaker still. Thus, said the Court:

"Finally, Antonio 'Bucot' Bautista, like his co-accused, also sought the defense of alibi. He said that the day before Marcelo Guico was killed he went to Toledo, Ramos, Tarlac, to collect P50.00 which his uncle has borrowed from him and he stayed until 4:00 o'clock in the morning of January 22, 1966, alleging that when he was finally paid it was only in the night of January 21, 1966. His testimony was corroborated by his alleged debtor who was his uncle, Eusebio Meligrito, who testified that Antonio 'Bucot' Bautista went to his house on January 19, 1966 to collect what he owed from him. He became indebted to the accused at a time when the accused was his visitor. As a reason for the prolonged stay of the accused in his house, the witness said that the accused arrived only when he was piling up his harvest and had to wait until he was able to sell his palay on the 21st of January and, having arrived late in his house, he was able to pay the said accused only that night.

This defense appears too good to be true. First the obligation was unusually created.-The witness borrowing money from the accused when the latter was his visitor. The Court knows that borrowing does not usually happen that way. The accused had to go and collect just before the crime was committed. He had to wait there for barely three days without going anywhere, apparently to preclude the possibility of being placed in the vicinity where the incident occurred. Even the payment has been timed to be in the night of the crime so that, considering the distance between Toledo, Ramos, Tarlac and Manaoag, Pangasinan, it could not be said of the accused that he was in Manaoag when Marcelo Guico was killed. This new-fangled defense is too perfect to be true but it cannot fool anyone. It was corroborated only by his uncle who cannot even tell at once the name of the alleged buyer of his palay who gave him the money with which to pay the accused. So the Court says that this defense of alibi is weak and unreliable because it easily fabricated and concocted without much opportunity of checking or rebutting it and when we consider the fact that Francisco Garlejo unmistakably placed him in the scene of the killing this defense of alibi becomes weaker still. The accused appalled perhaps by the evidence against him even neglected to file his own memorandum.

Francisco Garlejo testified on the way to the house of Antonio 'Bucot' Bautista early in the evening of January 21, 1966, all the accused, excluding Westrimundo Tabayoyong stopped in the store of Sito Escritor in Paitan where Bautista bought four bottles of wine and where they drank the first three bottles. Why did not the accused even as much as cite - let alone present - Sito Escritor as their witness if only to show that they were not together that night? No reason was given for such fatal omission." (CFI Decision, pp. 53-56, Records).

Summarizing the reasons of the trial court in convicting the three accused, it can easily be discerned that the conviction was based on (1) the identification of each of the accused by the discharged or liberated defendant Garlejo; (2) the possible motives of each of the accused and (3) the weakness of their respective alibis.

After a careful analysis of the evidence on record, We find the conclusions of the trial court to be without factual and legal basis.

The identification of the accused Bautista made by the defendant Garlejo whose testimony "unmistakably" placed him (Bautista) at the scene of the killing," and the identification of the accused Begenio who was "unfortunately identified to be with the group that ambushed and murdered Marcelo Guico," and that of the accused Castro who, according to Garlejo "when Marcelo Guico was being murdered the accused Antolin Castro gave aid by holding the deceased Marcelo Guico" is not worthy of credence and belief, not only because the evidence relied upon comes from a polluted source but also because it is not supported by any other material evidence on record. The legal principles heretofore cited earlier in this decision as to the probative value of evidence given by an accomplice, unsupported by corroborating evidence on the material points are clearly applicable to the case at bar. We reject Garlejo's testimony incriminating the three (3) remaining accused not merely because it is polluted, corrupt and contaminated. It is highly improbable, unnatural and far out of the common experience of man whether in doing what is good and lawful or what is evil and wrong.

The defendant Garlejo has been accused of stealing a cow and farming equipment worth Fifty Pesos (P50.00) in Urdaneta, Pangasinan, which case is still pending in court (t.s.n., p. 4, 8, July 27, 1967) and he has also admitted having escaped from jail. (t.s.n., p. 7, July 27, 1967, cited in Brief for accused Castro, p. 7). From this evidence, Garlejo's character is open to grave suspicion and doubt.

The only evidence on record tending to prove herein appellants' complicity in the crime charged, aside from Garlejo's unbelievable and incompetent testimony, are the extrajudicial confessions of the missing original co-accused, Julian Aguilar and Eligio Gacayan, marked Exhibits "D" and "E", respectively. As a matter of fact, before the actual trial could commence in the lower court, and while the prosecuting fiscal was arguing his petition for the discharge of then accused Francisco Garlejo which was met with energetic protests and objections from the respective counsel of the other accused, said fiscal admitted:

"I should be frank with the defense that the evidence of the prosecution in this case are only the three confessions of the three accused (referring to Francisco Garlejo, Julian Aguilar and Eligio Gacayan), and we have no more. There is a need for us to get the testimony of one of these accused x x x" (t.s.n., Ceralde, July 5, 1967, p. 4).

Pursuant to Rule 130, Section 29 of the Rules of Court, the declaration of an accused expressly acknowledging his guilt of the offense charged may be given in evidence against him. The corollary rule is that the confession of one of several co-accused is not competent evidence against his co-accused, the reason being that the confession of one of the defendants is hearsay evidence with respect to the rest, as the latter had no opportunity to cross-examine the former^[36] and since appellants' respective counsels interposed timely and vigorous objections during the trial to the admission of the aforementioned Exhibits "D" and "E" (t.s.n., Ceralde, August 2, 1967, pp. 103-105), the same being hearsay are inadmissible as evidence against the appellants.

There is, therefore, no other evidence to corroborate the unreliable, unconvincing and unsatisfactory testimony of Garlejo as far as herein appellants are concerned.

We agree with the argument of the accused Antolin Castro that it would be illogical and unfair for the trial court to convict appellants on the basis of the testimony of Francisco Garlejo which was discredited by the court and so acquitted the alleged mastermind of the killing, the accused Westrimundo Tabayoyong, citing the case of *People vs. Chaw Yaw Shun, et al.*, 23 SCRA 127 and reiterating the holding in *People vs. Aquino, et al.*, L-13789, June 30, 1960, 108 Phil. 814, thus –

"Since the widow appears to be the star witness of the prosecution whose testimony was given much weight in pinning liability on the accused, the Supreme Court would not be consistent and true to logic and fairness if it would now reach a verdict of conviction against them on the strength of the same testimony which was discredited by the trial court insofar as one of their co-accused in the same case is concerned." (Syllabus)

As to the possible motives pointed out in the judgment under review, We rule that the evidence in support thereto are, to Our considered view, very flimsy and weak. For assuming that the accused Antolin Castro was the rival of the deceased in the election of barrio captain and said accused lost to the deceased for the position; that the next election for barrio captain was coming up and this was a plausible cause for the accused Castro to eliminate the deceased, it has not been shown that said accused was a candidate or interested in running for said position. Assuming also that the accused Begenio "does not only belong to but is an assistant auditor of the party against whom the deceased campaigned and won as a barrio captain and that he was apprehended by the deceased on several occasions for gambling with his co-accused Bautista and warned against repeated violations of the law, there is also no showing that Begenio and Bautista were charged in court or convicted for said offenses.

But basically, the testimony of the widow as to these motives, however plausible, is essentially hearsay, the

probative value of which is open to grave doubts and suspicion, especially in a capital accusation such as the case at bar.

Moreover, while proof of motive is not necessary where there is a positive identification of the accused, in the instant case where the identification of the accused-appellants as the authors of the crime charged proceeds from unreliable and unsatisfactory evidence, evidence of motive becomes necessary. (*People vs. Salas*, 66 SCRA 126; *People vs. Madera*, 57 SCRA 349; *People vs. Dorico*, 54 SCRA 172). Indeed, the lack of motive to kill the offended party which has become apparent from the rejection of Garlejo's testimony that the killing was motivated in consideration of a price or reward allegedly offered by the accused Tabayoyong, may be taken or considered as a further basis for acquitting the remaining accused. (*People vs. Padirayon*, 67 SCRA 135).

The remaining errors assigned by herein appellants which all revolve around their respective defenses of alibi need not be lengthily discussed for there can be no dispute of the well-known and oft-repeated rulings of the Supreme Court on the inherent weakness of this particular defense interposed by said appellants. However it must also be admitted that in quite a number of cases where the evidence for the prosecution against the accused as author of a crime charged is weak, doubtful, unconvincing, unreliable or unsatisfactory, the defense of alibi assumes importance and acquires commensurate strength, and therefore, may be given credence.^[37] Indeed, We must "emphasize the fact that courts should not at once look with disfavor at the defense of alibi. x x x When an accused puts up the defense of alibi, the court should not at once have a mental prejudice against him. For, taken in the light of all the evidence on record, it may be sufficient to acquit him x x x."^[38] In *People vs. Bartolay*,^[39] We held: "The alibis of the three appellants, while weak in themselves, yet when coupled with the improbabilities and uncertainties of the prosecution evidence and the absence of adequate proof of conspiracy, suffice to raise reasonable doubts as to their responsibility."

Appellant Bautista's allegations that on the night of the murder he was in Barrio Toledo, Ramos, Tarlac in the house of his uncle, Eusebio Melegrito, was sufficiently corroborated by the latter who testified in open Court.

For his part, appellant Begenio simply testified that on the fateful night of January 21, 1966, he was in his own house in the same barrio where the murder was perpetrated, and that he was then sleeping with his wife and children. The simplicity of this accused's defense of alibi ought to be commended rather than disbelieved. As a defendant in a murder case, he could have offered to establish a concocted alibi which would bring him to a place far from the scene of the killing so as to make it impossible for him to have participated in the commission of the crime, rather than declare as the truth his pre-sence in the very same barrio where the victim met his death in the hands of assassins. We are, there-fore, persuaded to take Begenio's declarations regarding his whereabouts as aforestated to be true.

With respect to appellant Castro, it is true that he has failed to account for his whereabouts at the time of the murder for his evidence consisted of proof tending to show where he was, what he was doing and whom he was with on the day before the murder. Nevertheless despite this failure as well as the weakness of appellants' evidence, their acquittal or conviction should be based on all the evidence on record because "the accused cannot be convicted by reason of the weakness of their alibi. The prosecution must prove their guilt upon the strength of its evi-dence and not by the weakness of that of the accused."^[40] As We said in *People vs. Fraga, et al.*, speaking through Mr. Justice J. B. L. Reyes;

"(A)n accused cannot be convicted on the basis of evidence which, inde-pendent of his alibi, is weak, un-corroborated, and inconclusive. The rule that alibi must be satisfactorily proven was never intended to change the burden of proof in criminal cases; otherwise, we will see the absurdity of an accused being put in a more difficult position where the prosecution's evidence is vague and weak than where it is strong."^[41] (See also *People vs. Cunanan, et al.*, supra; *People vs. Bulawin*, supra; *People vs. Basuel*, supra; *People vs. Dayag*,

supra; and *People vs. Lim and Lim*, supra.)

In fine and essence, the prosecution has failed to prove the guilt of the accused-appellants beyond peradventure of doubt, not because of the weakness of their alibi but due to the reliance of the government on evidence that is polluted and corrupt. The innocence of the three accused which is presumed by constitutional mandate has not been successfully rebutted or overthrown, hence their acquittal must necessarily result from and be ordered by virtue of this review.

WHEREFORE, in view of all the foregoing, the judgment of conviction is hereby reversed and the accused Antonio Bautista alias "Bucot", Antolin Castro and Miguel Begenio alias "Aning" are hereby acquitted and ordered released from confinement, unless otherwise detained for another offense. Cost de oficio.

Judgment reversed.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Fernandez*, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.
Concepcion, Jr., J., on leave.

[1] CFI Record, p. 189.

[2] CFI Decision, p. 3; CFI Record, p. 484.

[3] Ibid., pp. 11-12; CFI Record, pp. 492-493.

[4] Ibid., pp. 3-8; CFI Record, pp. 484-489.

[5] Exhibit "A"; Folder of Exhibits, p. 1.

[6] Ibid.

[7] t.s.n., Navarro, July 27, 1967, pp. 85-94.

[8] t.s.n., Ceralde, Aug. 2, 1967, pp. 77-100.

[9] t.s.n., Austria, July 28, 1967, pp. 116, 118; but "Bernabe Manlapas" in lower Court's decision, p. 14, CFI Record, p. 495, while "Bernabe Marquez" in Exhibit "F" (t.s.n. second stage of preliminary investigation, Jan. 27, 1967), p. 84.

[10] t.s.n., Austria, July 28, 1967, pp. 96-118.

[11] t.s.n., Navarro, March 1, 1968, pp. 123-127.

[12] Ibid., pp. 112-119.

[13] t.s.n., Mabutas, Aug. 22, 1968, pp. 42-43 and pp. 48-52.

[14] t.s.n., Navarro, April 25, 1968, pp. 149-155.

[15] t.s.n., Navarro, Oct. 24, 1968, pp. 170-174 and pp. 179-184.

[16] Ibid., pp. 159-164.

[17] Ibid., pp. 169-170.

[18] t.s.n., Mabutas, March 1, 1968, pp. 25, 32.

[19] CFI Decision, pp. 39-40; CFI Record, pp. 520-521.

[20] U.S. vs. Inductivo, 40 Phil. 84, 88-89.

[21] U.S. vs. Barredo, et al., 32 Phil. 444, 451; U.S. vs. Abanzado, et al., 37 Phil. 658, 664-668; People vs. Ibañez, et al., 92 Phil. 933, 936; Guiao vs. Figueroa, 94 Phil. 1018, 1023; People vs. Mendiola, et al., 46 O.G. 3629, 3633; People vs. Bautista, et al., 106 Phil. 39, 44; People vs. Manigbas, et al., 109 Phil. 469, 478.

[22] Section 11, Rule 119, Revised Rules of Court.

[23] People vs. Mendiola, et al., supra, p. 3634.

[24] U.S. vs. Remigio, et al., 37 Phil. 599, 610-611 (Underscoring supplied); also quoted in People vs. Lanas, et al., 93 Phil. 147, 154-155, and in People vs. Cañete, 43 SCRA 14, 26. See also People vs. Aquino, 57 SCRA 43, 48.

[25] U.S. vs. Aguasa, et al., 4 Phil. 274, 275-276 (Underscoring supplied).

[26] U.S. vs. San Juan, 25 Phil. 513, 521 (Under-scoring supplied).

[27] People vs. Asinas, et al., 53 Phil. 59, 67 (Underscoring supplied); also quoted in People vs. Lanas, et al., supra, p. 155.

[28] People v. Bumanglag, et al., 56 Phil. 10, 14-15 (Underscoring supplied); also quoted in People vs. Lanas, et al., supra, p. 155.

[29] People vs. Dizon, et al., 76 Phil. 265, 271 (Underscoring supplied).

[30] People vs. Faltado, et al., 84 Phil. 89, 94 (Underscoring supplied).

[31] People v. Manigbas, et al., supra, 478-479 (Underscoring supplied).

[32] L-18237, Jan. 31, 1964, 10 SCRA 140, 147.

[33] 14 Am. Jur., p. 845.

[34] People vs. Mandangan, et al., 52 Phil. 62, 64.

[35] CFI Decision, pp. 25-27 (Underscoring supplied).

[36] U.S. vs. Candelaria, et al., 4 Phil. 543, 544; U.S. vs. Macalalad, et al., 9 Phil. 1, 5; People vs. Durante, et al., 47 Phil. 654, 658; People vs. Amajul, et al., 1 SCRA 682, 687.

[37] People vs. Cunanan, et al., 19 SCRA 769, 783; People vs. Bulawin, 29 SCRA 710, 721-722; People vs. Cruz, 32 SCRA 181, 187, quoting from People vs. Baquiran, 20 SCRA 451, 460-461; People vs. Basuel, 47 SCRA 207, 222-223; People vs. Beltran, 61 SCRA 246, 255-256; People vs. Salas, et al., 66 SCRA 126, 132-133; People vs. Lim and Lim, 80 SCRA 496.

[38] People vs. Villacorte, et al., 55 SCRA 640, 655.

[39] 42 SCRA 1, 6.

[40] People vs. Dayag, 56 SCRA 439, 450.

[41] 109 Phil. 241, 250.

* Fernandez, J., signed the decision prior to his departure for abroad.

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