

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ISABELO ANGGOT ALIAS “BILLY KID”;
DEFENDANT-APPELLANT.**

G.R. Nos. L-38101-02. June 29, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

On automatic review are the eight (8) death sentences imposed on accused Isabelo Anggot alias Billy Kid by the Court of First Instance of Lanao del Norte, for eight (8) separate crimes of murder[1] committed, according to the evidence of the prosecution, which is here-under fully quoted as recited in the People's brief, together with relevant facts subsequent thereto, as follows:

"This tragic incident which occurred on August 23, 1971 at Sapad, Lanao del Norte was one of the major highlights of the intense and bitter, and we might say even ruthless, conflict between Christians and Muslims. The Muslims, who at that time seemed to have had the upperhand, were on a rampage causing thousands of Christians to flee to safety. On that fate-ful day, about twenty Christians boarded Atlantic Bus No. 10 at Buriasan, Lanao del Norte bound for the town of Kapatagan, of the same province. For some of them, it would be a journey they would never forget. But for others, it was a trip they never lived to tell.

[]"Atlantic Bus No. 10 is a closed type bus with one door at the right side (tsn p. 44, July 24, 1972). As it left Buriasan, Lanao del Norte, it was fully loaded with passengers as well as cargoes and whatever little earthly possessions these evacuees could bring with them (tsn p. 49, *ibid*). Upon reaching Sapad (formerly a barrio of the municipality of Kapatagan), Atlantic Bus No. 10 was hailed to a stop by five (5) armed men, four of whom were identified to be Andam Langi, Penorac Macabebe, Macapanton Arimpo and accused Isabelo Anggot alias Billy Kid (tsn pp. 10-11, *ibid*). When the bus stopped, Andam Langi ordered the male passengers to stand and raise their shirts and at the same time asked them if they were carrying firearms (tsn pp. 11, 12, 56, *ibid*). Seeing no firearms in the possession of the male passengers, Andam Langi peremptorily ordered: "Fire". Hell broke loose as the five armed men lined up along the right side of the bus indiscriminately fired upon the bus with their weapons (tsn pp. 12--14, *ibid*). Not contented with just raking Atlantic Bus No. 10 with bullets, one of the five armed men shot the gas tank, filled a basin with gasoline, poured it upon the bus and lighted it (tsn pp. 22-23). Some of the passengers scampered out to safety as the bus turned into a burning inferno (tsn p. 16, *ibid*). However, Anselmo Sugang, Virgilio Abecia, Evangeline Abecia, Herculo Retis, Primitivo Retis, Renato Imborong, Hernando Pepito and Venancio Abecia never had a chance to escape, and they died on the spot (tsn pp. 16-17, *ibid*). The bodies of Virgilio Abecia and Evangeline Abecia were not recovered because they were burned with the bus (tsn p. 28, *ibid*).

"Two priests belonging to the parish of Kapatagan, Fathers Sullivan and Diamond together with Father Galensoga, who was then visiting Kapatagan at that time, went in two jeeps towards Sapad and stopped one kilometer away from the scene of the ambush (tsn p. 191, Sept. 21, 1972). There they picked up some survivors fleeing from the scene of the incident, namely: Felisa Abecia, Juanito Abecia, Jr., Daylinda Abecia, Pablita Pepito and Romeo Pepito (tsn pp. 29-30, 82-83, July 24, 1972). The wounded were brought to the Gonzales Clinic at Maranding for treatment, then to Tubod, Lanao del Norte, and finally taken by a pump boat

to Ozamis City (tsn p. 31, *ibid*).

"Juanito Abecia, Jr. a ten-year old boy was wounded through and through in the right knee and suffered linear fracture on the right femur (Exhibit "A", p. 6, Rec.). Pablita Pepito suffered a through and through gunshot wound on the left leg (Exhibit "B", p. 3, Rec.). Daylinda Abecia suffered a compound fracture on the right forearm secondary to gunshot wound, a compound fracture on the left leg, a through and through gunshot wound on the right leg and multiple powder burns on the left upper extremity and the face (Exhibit "C", p. 4, Rec.). Felisa Abecia suffered an abrasion with contusion on the right temple region, multiple gunshot wounds on the right upper thigh, and a lacerated wound on the left upper thigh (Exhibit "D", p. 5, Rec.). Romeo Pepito likewise suffered gunshot wounds (tsn p. 157, August 23, 1972)."[2]

Appellant admitted that he was appointed as helper-mechanic in the provincial motor pool by Vice-Governor Malamit Umpa; and state witnesses Felisa Abecia, Juanito Abecia, and Romeo Pepito testified that they had seen appellant many times in the company of Jimmy Umpa, son of the Vice-Governor, when the former ran for mayor of Buriasan town. Being beholden to the Vice-Governor, Malamit Umpa, and his son, Jimmy Umpa, appellant obviously was only too glad and willing to and did join the ambushers upon being told to go with them.

Secondly, appellant's testimony that he was merely brought to the scene of the incident by Jimmy Umpa, Andam Langi, Penorac Macabebe, and others whom he did not know, and made to witness, without participating in, the brutal slaying of the passengers of the ill-fated Atlantic Bus No. 10 at Sapad, is highly improbable if viewed in the light of common human experience. On this point, the observations made by the Solicitor General are hereby quoted with approval:

"Finally, Isabelo Anggot alias Billy Kid's assertion that he merely witnessed the incident, but did not in any way participate in it is manifestly a very shallow defense and typifies a last ditch effort to counteract the positive identification by the People's witnesses of appellant. Common experience has time and again shown that persons plotting to commit a crime plan it with utmost secrecy, not only to assure success but primarily to hide their identities and escape criminal responsibility. Yet, appellant Isabelo Anggot alias Billy Kid would want to impress upon this Honorable Court that the malefactors fetched him from his house, brought him with them against his will, coerced him to witness the bloody incident and afterwards warned him not to reveal the identities of the perpetrators of the crime. However, if the assailants were apprehensive about the possibility of their identification, would it not be more logical that they should not have brought with them the accused appellant at all? What possible motive could the malefactors have in taking along with them the accused appellant? Is it just to make the latter a witness to their dastardly deed? And having witnessed the massacre of his Christian brothers and having escaped from his alleged captors a few hours after the incident, why did appellant not report to the authorities the identities of the assailants? The defense has offered no explanations. We find none."

If the appellant were not a co-conspirator in the ambushade, his two armed escorts and the other armed members of the group would have pursued him to his hide-out only about two kilometers away from his house, where he hid for a few days before he allegedly fled to a town in Zamboanga. The armed group would have easily captured and liquidated him, if he did not freely join them from the very beginning. As a matter of fact, his alleged escape as described by him was too easy. He merely told his two armed escorts that he was going to change his dirty clothes, and he was allowed to go. After having gone upstairs, he jumped out of the window and ran towards their land at Pinamparan about two kilometers from his residence, and from there left for Mahayag after a few days.

II

The main opinion puts so much significance on the failure of the prosecution witnesses namely, Juanito Abecia, Jr., Romeo Pepito and Pablita Pepito, to mention the name of appellant in their respective affidavits as one of the

ambushers notwithstanding their testimonies that they knew him even before the incident. The discrepancy pointed out, however, is inadequate to weaken and destroy the credibility of the prosecution witnesses who positively identified the appellant during the trial as one of the perpetrators of the dastardly act. Aside from the positive identification of appellant by said state witnesses, appellant himself admitted that he was present at the scene of the crime. Moreover, the records do not disclose, and neither did appellant suggest, any improper or evil notice which could have impelled the prosecution witnesses to make any malicious imputation against herein appellant.

Finally, the main opinion harps on the alleged improbability of the testimony of witness Felisa Abecia. However, the testimony of this witness is not at all impaired or vitiated if taken in the light of the peculiar situation she was in at the time of the commission of the crime. Having with her two sons (one of whom died), a daughter-in-law, a grandson, and a nephew in the same bus (all of whom died), this witness could have been impelled by a strong desire to take a look thru that hole on the wall of the bus and see what was actually done by the armed men. This was a natural reaction on her part knowing that her life and the lives of several members of her family were at stake. Thus, her testimony that she saw appellant fired his gun should have been afforded weight in the absence of clear showing that this particular witness committed falsehood.

Furthermore, this issue being one of credibility, the rule is well-settled that the same be left to the discretion of the trial judge who has had the opportunity to observe the conduct and demeanor of the witness during the trial.

His being a Christian does not render impossible his joining a Muslim band of outlaws who apparently were protected by a Muslim Vice-governor, who was his employer. Renegades, Benedict Arnolds, Quislings, traitors, opportunists can be found also among Christians. Doubtless, appellant is one of them.

Hence, the judgment of conviction imposed by the lower court should be affirmed.

With the foregoing conclusion, the other assigned errors need not be discussed.

WHEREFORE, for failure of the evidence to prove guilt beyond reasonable doubt, the judgment appealed from is hereby reversed, and appellant, acquitted with cost de oficio.

SO ORDERED.

Fernando, C.J., Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and Melencio-Herrera, JJ., concur. Teehankee and Barredo, JJ., concurs J. Makasiar in his dissenting opinion.

[1] pp. 48-70, Rollo.

[2] pp. 4-6, Appellee's Brief, p. 124, Rollo.

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DISSENTING OPINION

MAKASIAR, J.:

Certain overriding factual considerations attendant to the case at bar compel me to dissent.

I

The main line of defense advanced by appellant, as stated in the main opinion, runs this way:

"Thus, he testified that in the morning of August 23, 1971, a Toyota jeep stopped near his house in Magpatao, Lala, Lanao del Norte, whose passengers were Barracudas, two of whom, Penorac Macabebe and Andam Langi, were the only ones he knew because Langi was a police-man and Macabebe was the security guard of Malamit Umpa, then the Vice-Governor, to whose house he was brought along by the jeep-riding Barracudas with force and with violence and maltreatment at gun point; that at Malamit Umpa's house, he was made to sit on a chair, while the people in the house were eating breakfast, but after half an hour, he was made to ride on the Toyota jeep together with Andam Langi, Penorac Macabebe, Jimmy Umpa and others whom he did not know, and headed for Sapad where they stopped at a certain place near a house; that they forthwith alighted from the jeep, and he was made to stand near that house, the other men in fatigue uniform surrounding him, Langi and Macabebe standing around two (2) meters at his back; that after a while, Atlantic Bus No. 10 passed by and was stopped by his companions; that the bus was fired upon by those fatigue uniform clad men who were heavily armed but whose names he did not know, while he was just near Jimmy Umpa; that after the firing, some of his companions ran towards the mountain while Jimmy Umpa, Andam Langi and Penorac Macabebe and others whom he did not know boarded the Toyota jeep which he also boarded, and they proceeded to the house of Vice-Governor Umpa, where he was brought upstairs and there was threatened with death, including that of his relatives, if he talked about the incident, that in the evening, he was escorted by two armed persons, but telling his escorts that he wanted to change his clothes which were already dirty, he went home from which he succeeded in escaping when he went upstairs and jumped out of the window and ran towards their land at Pinamparan, two (2) kilometers, more or less, from his residence, and after a few days, left for Mahayag, Zamboanga because of fear. It is this feeling of fear that deterred him from reporting the culprits to the authorities."

The foregoing tale woven by appellant appears as unnatural as it is absurd even to the ordinary layman. His bare assertion that he was forcibly taken, against his will, by a group of Toyota-riding armed men and later brought to a place to witness the gruesome massacre of innocent civilians is extremely unbelievable.

First of all, appellant's claim that he was forcibly taken by armed men and brought to the house of then Vice-Governor Malamit Umpa is obviously an after-thought too naive to be worthy of belief. Why should appellant be maltreated and forcibly taken when he was a well-known henchman or follower of the Vice-Governor to whose house he was brought? Appellant even admitted that he knew two of the men -- Andam Langi, a policeman, and Penorac Macabebe, a security guard of the Vice-Governor -- who picked him up. These two men could not have overlooked the fact that appellant was, like them, also a follower of the Vice-Governor.

on the right forearm secondary to gunshot wound, a compound fracture on the left leg, a through and through gunshot wound on the right leg and multiple powder burns on the left upper extremity and the face (Exhibit "C", p. 4, Rec.). Felisa Abecia suffered an abrasion with contusion on the right temporal region, multiple gunshot wounds on the right upper thigh, and a lacerated wound on the left upper thigh (Exhibit "D", p. 5, Rec.). Romeo Pepito likewise suffered gunshot wounds (tsn p. 157, August 23, 1972)."²

Appellant does not deny having been in the company of the group that held up the Atlantic Bus No. 10, but claims to have been forcibly asked to join the group, when he was picked up by four men from his house, but never

joined them in their criminal design, as he was not even armed with any gun, nor participated in the commission of the dastardly crime charged in the instant case.

Thus, he testified that in the morning of August 23, 1971, a Toyota jeep stopped near his house in Magpatao, Lala, Lanao del Norte, whose passengers were Barracudas, two of whom, Penorac Macabebe and Andam Langi were the only ones he knew because Langi was a policeman and Macabebe was the security guard of Malamit Umpa, then the Vice-Governor, to whose house he was brought along by the jeepriding Barracudas with force and with violence and maltreatment at gun point; that at Malamit Umpa's house, he was made to sit on a chair, while the people in the house were eating breakfast, but after half an hour, he was made to ride on the Toyota jeep together with Andam Langi, Penorac Macabebe, Jimmy Umpa and others whom he did not know, and headed for Sapad where they stopped at a certain place near a house; that they forthwith alighted from the jeep, and he was made to stand near that house, the other men in fatigue uniform surrounding him, Langi and Macabebe standing around two (2) meters at his back; that after a while, Atlantic Bus No. 10 passed by and was stopped by his companions; that the bus was fired upon by those fatigue uniform clad men who were heavily armed but whose names he did not know, while he was just near Jimmy Umpa; that after the firing, some of his companions ran towards the mountain while Jimmy Umpa, Andam Langi and Penorac Macabebe and others whom he did not know boarded the Toyota jeep which he also boarded, and they proceeded to the house of Vice-Governor Umpa, where he was brought upstairs and there was threatened with death, including that of his relatives, if he talked about the incident; that in the evening, he was escorted by two armed persons, but telling his escorts that he wanted to change his clothes which were already dirty, he went home from which he succeeded in escaping when he went upstairs and jumped out of the window and ran towards their land at Pinamparan, two (2) kilometers, more or less, from his residence, and after a few days, left for Mahayag, Zamboanga because of fear.³ It is this feeling of fear that deterred him from reporting the culprits to the authorities.⁴

With appellant's story, one is naturally led to ask why the real culprits, particularly Andam Langi, Penorac Macabebe and Jimmy Umpa, wanted to bring him along merely to be a witness to the commission of their heinous crime, and yet warned him with threat of death, not only his, but that of his relatives, not to reveal their names. From this seemingly incredible aspect of his testimony, being quite unnatural, the testimony of the state witnesses that they saw appellant not only armed with a gun but saw him in the act of squeezing the trigger, would indeed gain credibility. However, appellant points to some facts which allegedly render the testimony of those witnesses far from being reliable enough to validly sustain his conviction with proof of guilt beyond reasonable doubt.

Firstly, in the affidavits executed by Juanito Abecia, Jr., Romeo Pepito and Pablita Pepito, the name of appellant was never mentioned despite their knowing him even before the incident.

Secondly, Felisa Abecia's testimony that she saw appellant squeeze the trigger of his gun which is obviously improbable.

The absence of any mention of appellant's name in the affidavits earlier referred to by passengers of the ill-fated bus cannot but detract from the credibility of the affiants' testimony during the hearing that appellant was one of the ambushers that actually fired their gun. In explaining this omission, the state counsels resort to the oft-repeated observation on the incompleteness and inaccuracy of affidavits taken ex-parte.⁵ The omission, however, refers to a very important detail of the incident that one relating the incident as an eye-witness would not be expected to fail to mention such detail. The interrogator would not have himself failed to urge the affiant to tell all he knew and saw of the gruesome killing. Since, admittedly, appellant was known to the affiants, and perhaps known to be a Christian like themselves, in the company of Muslims, their ire against him would have been more fierce that he should have stood out distinctly in their memory as not to be missed in their giving the names of the culprits, but at least described as strangely the only Christian in the group of Barracudas.

The testimony of Felisa Abecia that she even saw appellant squeeze the trigger of his gun is extremely improbable. The actual firing was preceded by the command of the group leader: "Fire." The order to fire naturally warned the passengers to take cover, and more than likely, to instinctively close their eyes in anticipation of the gun burst. This witness, in fact, testified that on hearing the order to fire, she immediately crawled and sought cover. It is thus well-nigh impossible for her to have seen the appellant squeeze the trigger of his gun, which she claims to have done so through a hole on the wall of the bus. In crouching for cover, this witness must have not only closed her eyes as anyone would do in expecting the loud explosive sound of gunfires, but must have looked directly downward, not sideward at the wall of the bus, much less in the direction of where the bullets would come from, to be able to see appellant squeeze the trigger.

The obviously exaggerated testimony of Felisa Abecia had to be offered by the prosecution if it expects to succeed in pinning guilt on appellant, the only one tried, of several accused who had remained at large, as it might have anticipated the testimony of appellant, being the truth, that he was with the armed group against his will, totally unarmed, and was thus only present at the scene without having participated in the firing, nor joined in the criminal design of his companions - not at all unlikely, considering that he is a Christian who has not been shown to have compelling reason to join cause with the Muslims in their recurring conflict with the Christians in the region.

Appellant's failure to explain why he had to be threatened and maltreated to have him join the Muslim group is, admittedly, the weak link in his testimony. But in saying that he was never told the purpose of their bringing him with the group, nor was he able to ask them, the credibility of his testimony is not necessarily impaired or vitiated. He testified that he was trembling with fear, and that it was only Jimmy Umpa who told him that he was brought to the house of Vice-Governor Umpa because they wanted him to go with them to Buriasan.⁶ Buriasan is where about twenty Christians boarded the ill-fated bus. It was when the bus had reached Sapad that it met with its fiery end. Evidently, Buriasan is predominantly a Christian town. Could it be that to put up deceptively an appearance of friendly mis-sion in Buriasan, the Muslim group wanted the company of a well-known Christian? But that when they saw the bus coming from Buriasan, they held it up at Sapad to get the firearms the passenger may have carried with them. Of course, the state witnesses testified that there were no firearms carried by any of the passengers, but the violent reaction of the Muslim group firing indiscriminately at the passengers and burning down the bus would not seem to lend credence to this testimony. They obviously could not have given a different testimony for they would then jeopardize the cause of the prosecution.

Appellant is a Christian. While he was given a job as a helper-mechanic in the motor pool of the province by Muslim Vice-Governor Umpa, this is a simple and a normal political gesture to one of the constituents, but certainly not enough to have made appellant turn traitorously against his Christian brothers, to the extent of siding with Muslims in their deep-seated conflict against the Christian population in the region and joining them in the cold-blooded slaying of Christians, like himself. This highly improbable alliance which alone could have given reason for appellant to join the Barracudas who picked him up from his residence willingly and in conspiracy to commit the dastardly crime they planned to commit against innocent Christians cast a thick cloud of doubt on the veracity of the state witnesses, and lends plausibility to appellant's profession of innocence, corroborated as his testimony was by a credible witness, Supremo Manior,⁷ enough to make the mind uneasy in the certainty of his guilt.

2 pp. 4-6, Appellee's Brief, p. 124, Rollo.

3 pp. 249-265, t.s.n. Feb. 15, 1973.

4 pp. 265-286, t.s.n. Feb. 15, 1973.

5 p. 8, Appellee's brief, citing *People vs. Alcantara*, 33 SCRA 812, 820, p. 124, Rollo.

6 pp. 265-286, t.s.n. Feb. 15, 1972.

7 pp. 287-293, t.s.n. March 13, 1973.

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