

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
BONIFACIO VALERIANO, ET AL., ACCUSED; BONIFACIO VALERIANO,
BENJAMIN CMVZ, DAVID DE LA CRUZ, AND FAUSTINO CRUZ,
ACCUSED...**

G. R. No. L-2159. September 19, 1951

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/17b3f95b37d0/>

PER CURIAM:

This is an appeal interposed by Bonifacio Valeriano, David de la Cruz, Benjamin Cruz and Faustino Cruz from two decisions rendered by His Honor, Judge Castelo of the Court of First Instance of Rizal.

David de la Cruz was sentenced to reclusion perpetua and the remaining three to death. The four were further sentenced to pay, jointly and severally, the heirs of Judge Basilio Bautista, the sum of P2.000; those of Crispin Bautista, P2,000; those of Jesus Alejandrino, P2.000; those of Emiliano Magsisi, P2,000; and those of Bernabe Diosomito, P2,000; to indemnify, jointly and severally, the family of Judge Bautista in the sum of P1,320, the value of the unrecovered stolen articles; and to pay their aliquot part of the costs.

The facts proven are as follows:

Some two weeks before September 7, 1947, Faustino Cruz, through the efforts of his brother Benjamin Cruz who had accompanied him, contacted Ipeng Bulag in the house of Turang Putol's brother located in the barrio of Iba, Municipality of Meycauayan, Bulacan, where various Huks were gathered, among them being Magno Carpio, Pamboy, Celo, Bonifacio Valeriano, Rufino Pascual, Ador, Tony of Malabon and others. Ipeng Bulag was the Commanding Officer of Huk Base Squadron No. 96 of Bulacan, while the others were members. Benjamin Cruz belonged to the Cacarong Huk Organization of Pandi, Bulacan. Ipeng Bulag and Faustino Cruz entered a room and after a secret conference joined the others. Thereafter, Ipeng Bulag instructed Pamboy to look for Moro and all the tough boys of the Squadron and bring them to Iba to be employed in robbing the house of Judge Bautista, telling them later that they would break into the house of Judge Bautista for the purpose of robbing and killing him; that they should eliminate him for being too harsh against the Huks and because Seda, Salasa and Flor were about to be tried by him; and that they needed his wealth to support their comrades in the mountains. None of those present objected; indeed, all agreed. And in order to conceal their plan, they called it "Operation Malabon" in their conversations. On August 30, 1947, Faustino Cruz was informed in his house by Benjamin Cruz that Ipeng Bulag was prepared to carry out the robbery in Malabon but he did not have means of transportation which Faustino Cruz, however, promised to supply.

In the morning of September 6, 1947, by order of Faustino Cruz, Antonio Ialcon borrowed from Damian Laki a jeep bearing Plate No. 8-670 which he drove to the house of Elena de la Cruz, aunt of Benjamin Cruz, located at No. 1886 Rajabago Street, Gagalangin, Tondo, Manila, where Benjamin Cruz was waiting for him. After eating, at the behest of Benjamin Cruz, the latter, Ialcon and Juan de Guzman left Gagalangin in the jeep. Juan de Guzman was dropped at Polo and Ialcon and Benjamin Cruz proceeded to Meycauayan to deliver the jeep to Ipeng Bulag. Ipeng Bulag informed Benjamin Cruz that "Operation Malabon" would be carried out as planned by

Faustino Cruz, Ipeng Bulag, Pamboy and Magno.

Tony of Malabon and Benjamin Cruz, after looking over the house and yard of Judge Bautista on Friday previous to the robbery, prepared a sketch thereof to serve as guide. This sketch was taken personally by Tony to Ipeng Bulag in Meycauayan.

At past seven o'clock on the night of September 7, as agreed upon, Ipeng Bulag, Pamboy, Celo, Magno Carpio, Bonifacio Valeriano, Enteng, Benjamin Cruz, Gregorio Orian, David de la Cruz and others, all armed, left barrio Iba, Meycauayan, aboard the jeep No. 8—670 and headed for Pinagkabalian river via Malinta. Due to illness, Moro could not take part. After crossing the river in a banca manned by a boy named Onofre Javier, they proceeded to the house of Judge Bautista in barrio Hulong Duhat, Malabon, Kizal. Benjamin Cruz posted himself at the Dampalit bridge with orders to fire two shots in the air to announce the coming of police help; two stood guard at the gate of the yard; one posted himself at an alley alongside the yard; Bonifacio Valeriano approached the persons who were listening to the radio program under a nipa shed located at the side of the house and ordered them to raise their hands. Pamboy and Magno, with their guns ready, entered the dining room which was in the ground floor of the house, and ordered Judge Bautista and his son Crispin to raise their hands and thereafter to leave the dining room and go to the house of Santos Bautista, situated about 20 meters away from the house of the Judge in the same yard, the malefactors following closely with their guns trained at them. They asked for Santos Bautista and his wife answered that he was out. Doubting the truth of this answer, one of the malefactors went up the house but did not find Santos Bautista therein. Whereupon Pamboy and Magno led Crispin and the Judge to the latter's house, but before going up, Pamboy took the ring of Crispin. Upon reaching the bedroom of Judge Bautista, one of the malefactors broke the door of the wardrobe with the butt of his gun. They thereupon scattered the contents of the wardrobe on the floor and took the articles to be mentioned hereafter. They then shot Judge Bautista and Crispin at close range.

Santos Bautista, another son of the Judge who had just arrived in a house where mah-jong was played, located about 50 meters away from his, upon being informed by Artemio Roxas that his father's house was being robbed, immediately went to the municipal building to report.

Upon seeing the policemen arriving, Benjamin Cruz fired two shots in the air to warn his companions and ran away, throwing his revolver into the Dampalit River.

The policemen who arrived in a jeep at once alighted therefrom and proceeded to the yard where the malefactors, who were deployed at strategic positions, received them with a volley of gunfire. Sergeant Bernabe Diosomito and policemen Jesus Alejandrino and Emiliano Magsisi fell upon being shot. The assailants forthwith fled.

Shortly thereafter, other policemen arrived in a jeep with Santos Bautista, who found his father already dead and bathed in his own blood. Santos went to the clinic of Dr. Moises Santos where his brother Crispin (riddled with bullets) was taken, from which he transferred him immediately to the Philippine General Hospital where he died two days thereafter.

Sergeant Bernabe Diosomito was found by the policemen in the second jeep, prostrate and dead, and policemen Jesus Alejandrino and Emiliano Magsisi were so mortally wounded that they soon died,

Five gunshot wounds were found by Dr. Enrique V. de los Santos in the cadaver of Bastio Bautista, namely: first, a wound of entrance on the right side of the back, at the level of the 10th rib, making an exit wound on the right chest, at the level of the 4th rib; second, another wound of entrance at the right infra-scapular region, making an exit wound on the right chest, at the level of the 4th intercostal space; third, another wound of entrance on the left scapular region, making an exit wound on the sternum, at the level of the 5th rib; fourth, another wound of

entrance on the left chest, lateral aspect, along the posterior axillary line, making an exit wound on the right side of the back, at the level of the 7th rib; and lastly, a wound of entrance on the left arm, lateral aspect, making an exit wound on the left arm, medial aspect.

In the cadaver of Crispin Bautista, the following wounds were found by the same doctor: first, a wound of entrance on the left side of the epigastric region; second, another wound of entrance of the supero-lateral portion of the anterior aspect of the right chest; third, another wound of entrance on the supero-lateral portion of the anterior aspect of the right side of the chest; fourth, another wound of entrance on the upper portion of the lateral aspect of the left side of the neck, making a wound of exit on the right infra-mandibular region below the jawbone; fifth, another wound of entrance on the left cheek, making a wound of exit on the right infra-mandibular region; and lastly, a wound of entrance on the antero-medial aspect of the upper third left arm.

The same doctor found in the cadaver of Sergeant Bernabe Diosomito a gunshot wound of entrance on the infraclavicular region, making an exit wound on the right chest along the posterior axillary line.

In the cadaver of policeman Jesus Alejandrino, Dr. Pedro P. Solis found the following gunshot wounds: first, a wound of entrance on the right side of the sternal region, at the level of the third rib, making an exit wound on the posterior aspect of the chest at the inter-scapular region, at the level of the 5th thoracic vertebra; and another wound of entrance on the anterior aspect of the chest on the left mammary region, making an exit wound on the posterior aspect of the chest in the inter-scapular area at the level of the 4th rib.

The following gunshot wounds were found by the same doctor in the cadaver of policeman Emiliano Magsisi: first, a wound of entrance on the supero-lateral portion of the chest at the right infra-clavicular region; and another wound of entrance on the supero-lateral portion of the chest at the right infra-clavicular region.

The widow of Judge Bautista and his children noted the following articles missing: a handbag of the wife of Crispin Bautista containing P500; a wallet of Crispin containing P200; a wallet of Judge Bautista containing P300 and his Elgin watch valued at P120; and 10 woolen blankets valued at P200.

Assistant Provincial Fiscal Apolinario Sogueco found on the scene of the crime, besides the cadaver of Judge Bautista, articles scattered on the floor, one Thompson submachine gun (Exh. "LL") with its broken butt (Exh. "LL-1"), 4 shells (Exh. "SS"), 2 slugs (Exh. "SS-1"), and the cadavers of Sergeant Diosomito and Policemen Jesus Alejandrino and Emiliano Magsisi. The butt of the Thompson sub-machine gun was undoubtedly used to break the door of the wardrobe.

Lt. Col. Macario Asistio of the Military Police Command also went to the place to conduct an investigation and immediately put his soldiers and agents in action. In the house of Gregoria de Jesus located in barrio Suluean, Malabon, they arrested Bonifacio Valeriano who had sought refuge there by representing that he was not a bad person and that the Huks were after him. Col. Asistio found Valeriano's face and wrists tainted with mercurochrome. His khaki pants and sinamay shirt, still wet, were hidden in a corner of the house. Valeriano admitted that they were his. Asked about the condition of his face, he said that he had applied medicine to it after being maltreated by the Huks; but upon the removal of the mercurochrome, his face was found with neither contusions nor wounds.

Bonifacio Valeriano was taken to the house of Judge Bautista with his khaki pants and sinamay shirt, and he was there identified by Gregorio Cruz as the very person who, at the point of his rifle, ordered those listening to the radio program to raise their hands; he was recognized because the handkerchief covering the lower part of his face fell, and he was then wearing the khaki pants (Exh. "AA— 1") and the sinamay shirt (Exh. "AA") which he later hid in a corner of the house where he sought refuge.

The alleged maltreatment claimed to have been received from the Huks having been found to be untrue when his face showed no injury whatsoever after the mercurochrome had been removed, and, upon the other hand, having been identified by Gregorio Cruz, Bonifacio Valeriano finally had to confess that he participated in the robbery in the house of Judge Bautista. He was accordingly taken to the Military Police Command headquarters at the BBB building at Polo, Bulacan.

Upon arrival at the headquarters, Valeriano was searched and a gold ring with the initial C, the same ring which Pamboy took from Crispin before going up the house, was found in his pocket. When asked about the ring, he said that Pamboy entrusted it to him until the next day. Undoubtedly, convinced that it was futile to tell more lies, he named his companions in the robbery, and it was at this juncture that statement Exhibit "II" was taken and sworn to the next day, September 8, 1947, before Ricartlo Robles, Justice of the Peace of Malabon.

By order of Col. M. Asistio, a platoon of soldiers of the Philippine Army under the command of Lt. Amadeo L. Cruz was dispatched to Meycawayan to arrest all the companions of Valeriano, using as guide Valeriano, who had offered his services.

Accompanied by the Chief of Police of Meycawayan, Lt. Cruz went to the house of Bonifacio Valeriano in barrio Libtong where they met his mother whom Valeriano implored: "Nanay, bendicionan ninyo ako sapagka't ito na ang talagang kapalaran ko. (Mother, bless me, for this is my fate.)" Whereupon they went to the house of Rufino Pascual in barrio Muralla and, finding only Pascual's mother, Valeriano said to her: "You thought that your son was working in the quarry, when in fact he was with us in Malabon when we attacked the house of Judge Bautista." They then proceeded to the house of Gregorio Orian in barrio Iba, but found nobody there; however, they found a .45 caliber grease gun with several rounds of ammunition and papers belonging to the Huks. From here they went to the house of Vicente Milan, alias Enteng, in barrio Malahatan; Vicente was out but they found a letter addressed to his sweetheart mentioning "Operation Malabon." Thereafter, they returned to the headquarters at the BBB building.

On August 25, 1944, Edgardo Cruz, son of Faustino Cruz, was killed by the guerrillas of barrio Hulong Duhat. Faustino harbored the belief that Judge Bautista had something to do with the death of his son, because he was the head of the guerrillas in the locality. Faustino Cruz filed charges against him with the Japanese Military Police. Because of these charges, Judge Bautista was called for investigation by Victor Alfonso, Jr. inspector of the constabulary detachment then stationed in Malabon. For lack of sufficient evidence, Alfonso, Jr. released Judge Bautista.

After liberation, Faustino Cruz was arrested by the CIC. Again Faustino Cruz thought that Judge Bautista had a part in his arrest, so that, upon his release, he made a vow to make money and wreak vengeance on the Judge and his family.

On April 15, 1947, Faustino Cruz invited Ricardo Cruz to the Wah Nam restaurant and, while, they were eating, he implored Ricardo to execute an affidavit regarding the death of his son Edgardo. Ricardo was one of those who arrested Edgardo by order of their chief Alberto Lazaro. After the meal he was taken to the law office of Atty. Jose S. Esteban where Faustino Cruz wanted Ricardo to declare that Judge Bautista had something to do with the death of his son (Exh. 2.) Since Ricardo Cruz refused, Faustino said: "All right, never mind, when he (referring to Judge Bautista) holds a meeting as a candidate for governor, I will have him kidnapped." As he also failed to get the help of Alberto Lazaro in the plan to accuse Judge Bautista, Faustino Cruz thought of utilizing Ipeng Bulag, the commanding officer of a Kuk organization. Whereupon he instructed his brother Benjamin Cruz to look for said Ipeng. Having contacted him, Benjamin transmitted the wish of his brother Faustino of killing and robbing Judge Bautista. The interview, as hereinbefore stated, took place in the house of Turang Putol's brother where

various Huks were gathered. It did not take long to persuade Ipeng Bulag; he accepted the proposition willingly because he had instructions from the Huk Supremo to eliminate Judge Bautista, who was too harsh against the Huks appearing in his court in Pampanga and who would soon try Seda, Salasa and Flor, besides, there was necessity to seize his wealth for the support of the men in the mountains. These were the motives of the crime.

In synthesis, Faustino—seized with the obsession that his son Edgardo had been killed by the guerrillas upon order of Judge Bautista—wanted revenge. He endeavored to enlist the help of the Huks and he succeeded. From Meycawayan to the barrio of Judge Bautista is a long stretch. The executors of the plan needed a rapid means of transportation. Faustino Cruz, thru Antonio Haleon, furnished it. Ipeng Bulag, David de la Cruz, Benjamin Cruz, Bonifacio Valeriano and the others already named were able not only to kill Judge Bautista and rob him of various articles valued at ₱320, but also his son Crispin, a sergeant and two municipal policemen who came to the rescue. And although Faustino Cruz was not present in the perpetration of the felony, nevertheless, he is as much a co-principal and responsible as the others who committed it personally. The agreement reached in Iba, Meycauayan, by Faustino Cruz and Ipeng Bulag to rob and kill Judge Bautista, made known to the others gathered, and approved by all, is a conspiracy that makes every participant responsible. It is not indispensable that a co-conspirator should take a direct part in every act and should know the part which every one has to play. Conspiracy is the common design to commit a felony; it is not participation in all the details of the execution of the crime. All those who in one way or another help and cooperate in the consummation of a felony previously planned are co-principals.

The defense assigns various errors which in substance may be narrowed 'down to the following: That the trial court erred in giving credence to the evidence of the prosecution and in admitting, instead of rejecting, the confessions of the accused David de la Cruz, Benjamin Cruz, Bonifacio Valeriano and Faustino Cruz. We will take up the defense of each accused.

Upon arraignment, David de la Cruz pleaded guilty; and although he had been informed repeatedly by the presiding judge that, if the allegations of the information were proven, he would be sentenced to death, he still pleaded guilty. David de la Cruz presented himself to Capt. Serdefia in Meycawayan in order that the latter might accompany him in surrendering to the Secretary of the Interior, Hon. Jose C. Zulueta; he admitted before Secretary Zulueta having participated in robbing and killing Judge Bautista; Secretary Zulueta ordered Capt. Serdefia to take David de la Cruz to the military police authorities, with a letter (Exh. "BB"), so that the latter might take down his statement. When he appeared on September 19 before Jose Lim, Clerk of the People's Court, to swear to his statement (Exh. "MM"), he was in such perfect physical condition that he did not even insinuate having been maltreated. Why should they have to maltreat him after he had voluntarily surrendered to the authorities and admitted his participation in the robbery and homicide perpetrated in the house of Judge Bautista? His allegation that he signed his statement (Exh. "MM") because he was maltreated does not deserve serious consideration: it is incompatible with his conduct before the Secretary of the Interior, before Clerk Lam, and before the immense crowd present in open court.

Upon arraignment at the beginning of the trial, Bonifacio Valeriano pleaded guilty; but upon repeated advertence on the part of the trial judge that he could be sentenced to death if the allegations of the information were proven, he finally pleaded not guilty. Bonifacio Valeriano was the one who accompanied the platoon of soldiers headed by Lt. Cruz to the houses in Meycawayan of his companions in the robbery, and upon meeting his mother, repentant perhaps of the wrong he had committed, he said in Tagalog: "Inay, ipagdasal ninyo ako sapagka't ito ang suerte ko." By his confession, the Military Police Command learned the names of his companions in the robbery. If he had in fact been maltreated, he would have denounced it to the persons before whom he had sworn his confessions, to newspapermen Jose P. Bautista of the Manila Times and Jesus P. Bigornia of the Manila Daily

Bulletin, and to the trial court upon arraignment in open session. It was the best opportunity for him to reveal everything. Valeriano then insisted that he had been forced by his companions to take part in the crime. If he later declared that he signed his sworn confessions because he had been tortured, either somebody must have coached him or he must have believed that by doing so he would be acquitted.

Valeriano set up three defenses: first, that he was a victim of the Huks; secondly, that he was forced by his companions to take part in the robbery in the house of Judge Bautista; and thirdly, that he was maltreated. An accused, who with such facility concocts three defenses all inconsistent with his previous conduct, does not deserve any credence whatsoever.

Benjamin Cruz, testifying on his behalf, declared that on the night of September 7 he was talking to Platerio Aquino about candidacies, after which they separated. Thereafter, he heard gunshots and learned that it was a robbery in the house of Judge Bautista; he went to the house of his sister-in-law Emilia Santiago; he ordered his children to lie down and as there was no place for him there, he went to the house in front of Antonio Lazaro's store where he slept. In this house, he was arrested. He signed the sworn confessions (Exhibits "HH", "HH-1", and "HH-2") because he had been tortured by agents Dimaano, Eios and others, who kicked and boxed him and "thrust" their revolvers at him. As he could no longer bear the maltreatment, he told them to write down whatever they wanted and he would sign everything; and he signed Exhibits "HH-3" and "HH-4" because he was again maltreated. If he had in fact said that he was ready to sign everything, why should it be necessary for the agents to maltreat him two times more when he had already signed the documents presented to him and had or promised to sign whatever they wanted? The alleged subsequent maltreatments were unnecessary.

Exhibit "HH-4-a", found in the yard of Judge Bautista after the event, is a sketch of the yard prepared by Tony of Malabon with the aid of the accused. In the trial Benjamin Cruz denied having participated in the preparation of said exhibit. The trial court, desiring to verify whether or not the accused had participated in its preparation, dictated to him some words to be written in Exhibit "XX". The trial Judge said in his decision:

"The Court suspecting that Benjamin Cruz had something to do with the preparation of document Exhibit 'HH—4-a' ordered the defendant to take dictation from the Court. Without being noticed by the defendant, the Court read a portion of the handwriting or Exhibit 'HH-d-a': 'two dogs, police dogs', and other words appearing therein, and Benjamin Cruz wrote on paper marked Exhibit 'XX' the words '2 dogs' with the word 'two' in figure and the words 'police dogs' as 'foolish dogs' which are exactly the same as those appearing in Exhibit 'HH-4-a', although the accused tried to change the appearance of his handwriting by writing big letters on Exhibit 'XX'. This circumstance made this Court to believe that Benjamin Cruz was the same person who prepared Exhibit 'HH-4-a' and which was used by the robbers in carrying out their plot to rob and kill Judge Bautista." (Page 108, Record.) (See also page 474, Set I, t.s.n.; Exh. "XX".)

We do not find any reason to alter this conclusion of his Honor, the trial Judge.

It is strange that Benjamin Cruz did not reveal the alleged maltreatment to the persons before whom he swore his confessions, and did not show the signs or marks on his body left by the points of the revolvers with which he was hit; it is odd that he would conceal that which he had been made to suffer and would reveal it only after hearing the evidence of his guilt.

Faustino Cruz, testifying on his behalf, said that he is from Malabon, Kizal, but on February 2, 1944, he transferred to Maypajo, Caloocan, and in September of the same year, he moved to Batangas, Batangas, with the intention never to return because on his birthday he was informed by Marcelo de la Cruz that the guerrillas, would kill him for having, at times, gone in company with agents Manipon and Gonzales, and since then he never returned to Malabon. While he was in Maypajo, his son Edgardo was killed by Alberto Lazaro, chief of the guerrillas, and his companions; when he ordered the arrest of the guilty parties and in the exhumation of the

remains of his son, he was accompanied by two trucks of Constabulary soldiers; they were able to arrest Gregorio Santiago, the owner of the house where his son Edgardo was killed, Benjamin Cordero, Alberto Lazaro, Alfredo Nunez, Dominador de la Cruz and others, seven in all. While Alberto Lazaro was detained, he told Kausti.no that he only complied with the orders of his chief. Fiscal Bautista (the deceased Judge Bautista was then Fiscal); but from the investigations made by Major Torillo of the Constabulary, Alberto Lazaro was the master mind of the death of Edgardo, for which reason he released Fiscal Bautista.

After liberation, Faustino's intention was to file charges with the CIC, but it turned out that it was he who was accused by Alberto Lazaro, for which reason he was detained in Batangas for 17 days. He requested Don Tomas de Jesus to help him prosecute those who killed his son Edgardo, one of whom was Eieardo Cruz, but he did not propose to accuse him because he wanted to use him as witness for the government. Tomas de Jesus was able to take along Bicardo Cruz to the Life Hotel where Faustino was staying, but as he was busy, he invited Eicardo to the Panciteria Wah Nam; Faustino was then with Antonio Halcon, and in order that the latter might not hear his conversation with Eicardo and so that Halcon might leave, he said something to him which he could no longer remember. After eating, they went to the law office of Attys. Sison, Aruego and Esteban, the last being the lawyer who prepared the sworn statement of Eicardo (Exhibit 2). Since 1946, Faustino Cruz had known Antonio Halcon in Batangas, Batangas. The latter, after leaving his work in a depot of the U. S. Army, devoted his time to repairing jeeps and used to go to the store of Faustino Cruz to buy spare parts needed by his customers, and the accused usually gave him tips for such purposes. When Antonio Halcon had jeeps to repair, he would do it in the camarin of Faustino Cruz in Batangas, Batangas, and would purchase the spare parts from his store. If he could not finish the work, Halcou usually ate his lunch or supper in the house of Faustino and sometimes slept there instead of returning to San Jose, Batangas, where he resided. Halcon went into the business of repairing jeeps before Christmas of 1946, and the relations of both had become so intimate that Halcon at times helped Faustino in the latter's business of buying and selling bananas.

The accused Faustino Cruz ordered his brothers and Antonio to plant bananas in his land situated in San Juan, which lasted several weeks, during which they consumed half a cavan of rice. From 1947 Benjamin Cruz and Antonio Halcon, for more than 50 times, had sold bananas in Blumentritt, Manila, when they could not sell all their stock in Batangas. When he acquired his land in San Juan in exchange for his house, Faustino came to know Damian Laid and his son Guillermo Laki, and he and Antonio lodged in the house of the latter.

From the early morning of September 6, 1941, according to him, to three o'clock in the afternoon, he sold his bananas to his customers. After that, he left for Batangas; he learned of the robbery in the house of Judge Bautista in the morning of Monday when he came to Manila because he read it in a newspaper in Binan where he ate his breakfast.

When he learned from the newspaper that his brother Benjamin Cruz had implicated him in the crime, he went to consult a lawyer in Manila as to what to do, but the said lawyer could not assure him that he would not be hurt if he surrendered, so he returned to his home in Batangas; but as he was informed upon his arrival that he was sought by some persons, he went to the house of Juan Cantos, his compadre, whom he requested to let him live in Juan's house in Tabangao-Dao, a barrio located on top of a mountain about 8 kilometers away from the town. Juan Cantos introduced him to his brother Basilio, who was the real owner of the house. Impatient, Faustino went to Bauan where he boarded a bus for Manila via Tagaytay, telling Halcon that he was going to barrio Kuta and not to Manila; Faustino Cruz and Antonio Halcon were arrested in the house of Basilio Cantos early in the morning of October 9, 1947, and, both handcuffed, were brought to Manila. Faustino Criiz was taken to the BBB building by Cesar Dimaano, Sanchez, Ben Bautista and a fat policeman. Because he refused to tell the truth, he was maltreated by the three policemen who boxed and kicked him; he was threatened to be thrown into the river and

shot if he did not confess, showing to him a newspaper containing the picture of Simeon Laurel. As he refused to own his guilt, the fat policeman pushed him towards Minguing, Daring and a Mexican' named Pablo who tortured him with the intention to kill him. When he fell to the floor on his back, Daring hit him with the butt of his revolver. Not content with this Minguing took a rifle and with its butt hit him on the stomach; the Mexican also hit him on the stomach, and he fell to the floor unconscious. Upon regaining consciousness, he asked for water and, after drinking, he said: "Go ahead, do what you like and I would sign it."

From accused Faustino's own testimony, it can be seen that, due to his advantageous financial condition, he used to give orders and tips to Halcon. It is not strange, therefore, that the accused Faustino might have really instructed Antonio to borrow the jeep of Damian Laki which Antonio had just finished repairing in order to bring the same to Meyecawayan. Faustino denied this fact. If he had not received instructions from Faustino, what interest did Antonio have in bringing the jeep to Gagalangin for delivery to Benjamin and then to Ipeng Bulag in Meyecawayan? Antonio had no relation whatsoever with Ipeng Bulag; but the evidence shows that the accused Faustino was interested in wreaking vengeance on Judge Bautista for the death of Edgardo; he had an agreement with Ipeng Bulag to carry out the "Operation aa Malabon" and on August 30 he promised to furnish him transportation. Faustino Cruz, not Antonio, was the one interested in having the jeep brought to Meyecawayan so as to provide Ipeng Bulag and his companions with transportation in order to rob and kill Judge Bautista. That Faustino Cruz had a controlling influence over Antonio Haleon is shown by the fact that when the latter wanted to return to Manila from the house of Basilio Cantos where they had been hiding, Faustino told him not to do so because his presence in Manila would "serve as a fuse to his life", meaning thereby that the presence of Antonio Halcon would lead to the discovery of the whereabouts of Faustino and the participation which he had in the crime. This conversation was overheard by the owner of the house, Basilio Cantos. Antonio agreed to stay.

There is another important detail which compels us to conclude that it was not Antonio Halcon who was interested in sending the jeep to Meyecawayan: On leaving the house where he used to live in Gagalangin, Faustino instructed his niece to tell Antonio upon arrival that he (Faustino) was in the Capitol Hotel. Antonio went to said hotel and Faustino instructed him to go to Batangas, giving him five pesos for this purpose, to inform Damian Laid that the jeep was lost. This is the verbatim declaration of Faustino: "On the afternoon of September 9, Tony (Antonio Haleon) left for Batangas and I gave him five pesos for his transportation with the instruction to report the loss of the jeep to its owner and whatever would be the answer Tony should come back to Manila to report to me so that I would know what to do with the jeep." This reveals his special interest in the jeep; it is the key to the crime; it is the revealing instrument. We have to conclude that Faustino ordered Antonio to borrow the jeep, otherwise he would not have taken the trouble and expense of sending Antonio to Batangas.

The statement of Guillermo Laki when he testified for the defense that he did not lend the jeep, is of no consequence; it does not affect nor impair the testimony of Antonio. Undoubtedly, for fear of being implicated, the owner was constrained to declare as he did.

Faustino Cruz testified that he did not know Ipeng Bulag; that he had not been to Meyecawayan; that he did not commission Benjamin to talk to Ipeng Bulag. All these denials can not prevail over the positive proofs appearing in the record.

If he was in fact maltreated, specially with blows from revolver and rifle butts, some marks would have been left on his body. The accused did not say anything about these blows to Justice of the Peace Bobles when he swore to his confession before him, nor to Col. Asistio who sent for him in his office for investigation. In fact Faustino told him that he had nothing more to add to or suppress from his confession.

Before Benjamin revealed the participation of Faustina Cruz, the latter transferred to the Capitol Hotel from the

house in Gagalangij (where he used to lodge when he came to Manila), and, instead of using his true name, he registered under the name, "Mr. Reyes", from 8:30 p.m. of September 9 to 11:25 a.m. of the next day (Exh. "5-P"); and under the same false name, he again registered at the same hotel at 8:30 in the evening of September 10 until 8:20 a.m. of the next day (Exh. "5-Q"); then he went to hide with Antonio in the house of Basilio Cantos, atop a mountain in Batangas; he objected to Antonio's desire to return to Manila so that his whereabouts would not be discovered, and he did not want to remain alone in his hiding place; he came to Manila, incognito, via Tagaytay, making Antonio believe that he was going only to barrio Kuta. This conduct reveals an uneasy conscience. The spectre of the crime did not leave him in peace.

The defense set up by each and everyone of the accused does not impair in the least the evidence adduced by the prosecution. We are of the opinion that the court a quo did not err in not giving credence to the evidence for the defense.

The trial court erred in considering as ordinary aggravating circumstance the use of unlicensed firearms. Article 296 of the Revised Penal Code, as amended by Section 3 of Republic Act No. 12, reads: "When more than three armed malefactors take part in the commission of a robbery, it shall be deemed to have been committed by a band. When any of the arms used in the commission of the offense be an unlicensed firearm, the penalty to be imposed upon all the malefactors shall be the maximum of the corresponding penalty provided by law, without prejudice to the criminal liability for illegal possession of such unlicensed firearm."

Article 295 of the Revised Penal Code, as amended Section 2, of Republic Act No. 12, reads: "If the offenses mentioned in the next preceding article shall be committed in an uninhabited place or by a band, or by attacking a train, car, vehicle, vessel or craft, or by entering any compartment thereof or, in any manner, taking the persons therein by surprise in the respective conveyances, the offender shall be punished by the maximum period of the proper penalties."

Evident premeditation is not considered as an aggravating circumstance in crimes of robbery because the same is inherent in the crime specially where it is committed by various persons; they must have an agreement, they have to meditate and reflect on the manner of carrying out the crime and they have to act coordinately in order to succeed. (Decisions of the Supreme Court of Spain of October 12, 1885 and December 7, 1885; U. S. vs. Matinong, 22 Phil. 439; People vs. Mantawar, [*] 45 Off. Gaz., Supp. 9, 437.) But in the crime of robbery with homicide, if there is evident premeditation to kill besides stealing, it is considered as an aggravating circumstance. (Decisions of the Supreme Court of Spain of September 1, 1877 and March 1, 1880.) In the instant case, it has been proven that the accused, on various occasions before committing the crime, planned and decided not only to steal but also to kill Judge Bautista. Hence, there is present evident premeditation.

The aggravating circumstance of insult or disregard

of the respect due the offended party on account of his rank is present, because, according to the evidence, the accused wanted to kill Judge Bautista specially because he was strict as Judge; their purpose was to eliminate, not Basilio Bautista, but Judge Bautista of the Court of First Instance of Pampanga, so that he could not try Seda, Salasa and Flor. The Supreme Court of Spain in its decision of June 9, 1877, held that the aggravating circumstance of insult or disregard of the respect due the offended party on account of his rank was present in a case where the accused killed the deceased because of resentment they harbored against him as Municipal Judge. The same doctrine was laid down in its decision of January 24, 1881.

Dwelling should be considered as another aggravating circumstance in this case.

The pretension of the defense that it has not been proven that jeep No. 8-670 was used in the robbery, is not well taken. The evidence on record is abundant to this effect. The use of motor vehicle is an aggravating circumstance

provided for in Article 14, paragraph 20, of the Revised Penal Code.

After the hearing of the case, the brothers Benjamin and Faustino Cruz presented a motion for new trial on the ground of newly discovered evidence. "Annex A", "Annex B", "Annex C" and "Annex D" have been attached to the motion as appendices. "Annex A" is a sworn statement of Bonifacio Valeriano, in which Valeriano says that one of his companions in the robbery at the house of Judge Bautista was Benjamin Cruz who had escaped from the provincial jail of Malolos, and not Benjamin Cruz, the brother of Faustino Cruz. "Annex C" is a carbon copy of the petition sent by Bonifacio Valeriano to the President of the Philippines praying that he be granted amnesty, alleging that the crime committed by him is covered by the Amnesty Proclamation. In said letter Bonifacio Valeriano states that the brothers Benjamin and Faustino Cruz, of Malabon, have nothing to do with the robbery and killing of Judge Bautista. The letter is not sworn. "Annex B" is a carbon copy of a letter addressed to Atty. Basilio patimbang by the provincial warden of Bulacan, in which it is said that a prisoner by the name of Benjamin Cruz y Sanchez alias Emen had escaped from jail. "Annex D" is a sketch of the yard and premises of the house of Judge Bautista.

There is no doubt that the Benjamin Cruz who escaped from jail is not the same Benjamin Cruz who is accused in this case. If the statements of Bonifacio Vaieriano appearing in "Annex A" and sworn to on January 21, 1950, and "Annex C" are true, the accused Benjamin Cruz and Faustino Cruz are entitled to a new trial. But Bonifacio Valeriano changes his statements with the same ease as the chameleon changes its color: he concocted -three defenses, as we have already shown in the discussion of his defense. The three defenses are incompatible with his confession (Exh. II) signed before the Justice of the Peace of Malabon on September 8, 1947. Said confession was corroborated in its essential parts by Bonifacio Vaieriano in his statements to the newspapermen Jose P. Bautista of the Manila Times and Jesus P. Bigornia of the Manila Daily Bulletin who interviewed him. In this confession (Exh. II) Bonifacio Vaieriano clearly states that Benjamin Cruz alias Six by Six was one of those who had taken part in the robbery, and not Benjamin Cruz y Sanchez alias Emen. Antonio Halcon also declared that on August SO, 1947, Benjamin Cruz told his brother Faustino Cruz that Ipeng Bulag and his companions were ready to carry out "Operation Malabon", but that they needed a vehicle to transport them, Faustino replied: "I will furnish it." The last fabrication, therefore, of Bonifacio Vaieriano that the one who took part in the robbery is Benjamin Cruz y Sanchez alias Emen and not Benjamin Cruz, the appellant herein, brother of Faustino, should not be believed.

The crime committed by the accused is robbery in band with homicide. The penalty provided for by Article 294 of the Revised Penal Code is reclusion perpetua to death, and in accordance with Republic Act No. 12, the penalty to be imposed upon them is the maximum penalty, that is, death, even without the concurrence of any aggravating circumstance.

The voluntary surrender and spontaneous and insistent admission of guilt by the accused David de la Cruz in spite of repeated admonition by the trial court that he could be sentenced to death by such admission demonstrate an avowal of the wrong committed or a true act of contrition. Because of this circumstance, there are no sufficient votes for the imposition of death; consequently, the penalty next lower in degree, that is, reclusion perpetua should be imposed upon him.

The motion for new trial is denied and the two appealed decisions are hereby affirmed. The gold ring Exhibit "Z" is ordered returned to the widow of the deceased Crispin Bautista.

So ordered with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, and Jugo, JJ., concur.

[*] 80 Phil., 817.

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.