

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PEDRO MELODOLLAR, ET ALS., DEFENDANTS. FELIMON GIBAS,
GABRIEL GIBAS, PEDRO MELODOLLAR AND MAXIMINO
MELODOLLAR, DEFENDA...**

G.R. No. L-3668. February 20, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal from a decision of the Court of First Instance of Laguna, acquitting Alfredo Marquez and finding appellants Pedro Melodollar, Maximino Melodollar, Felimon Gibas, and Gabriel Gibas, guilty of robbery with homicide, sentencing them to reclusion perpetua, to return to the College of Agriculture, University of the Philippines, the sum of P22,000, to indemnify the heirs of the deceased Timoteo de la Fuente in the sum of P4,000, jointly and severally, and each to pay one-fifth (1/5) of the costs. Pending appeal and before submitting his brief, Maximino Melodollar filed a motion to withdraw his appeal, which motion was duly granted, thereby rendering the decision with respect to him executory.

The following facts are not disputed. On April 29, 1948, near midnight, the administration building of the College of Agriculture, University of the Philippines at Los Banos, Laguna, was broken into, the steel safe in the office of the disbursing officer containing over P22,000 in cash and in checks and small coins carried away, and later forcibly opened and its contents taken by the malefactors. In order to commit the robbery without interference, a night watchman armed with a carbine and guarding this administration building had to be killed. Notified of the commission of this serious crime Capt. Carlos T. Galvez and Sgt. Jose D. Garcia of the Constabulary detachment stationed at Calamba, Laguna, conducted the necessary investigation. As a result of such investigation appellant Pedro Melodollar was arrested and when questioned, he admitted having taken part in committing the crime. He implicated Honorio Maligalig, Alejo Maligalig, Estefano Villegas and Bonifacio Albez, and these four persons were also arrested. When questioned they all admitted participation in the commission of the crime, all of them making affidavits to that effect, which affidavits were ratified before the Justice of the Peace. On the basis of these admissions Capt. Galvez filed the corresponding complaint in the justice of the peace court against them, including Pedro Melodollar. Later on, however, after mulling over the case, Capt. Galvez began to seriously doubt that the contents of the affidavits were really true, and that the affiants had actually committed the crime. For instance, according to Capt. Galvez the manner, in which the crime was committed, according to the affidavits and the other statements of the affiants, appeared to him improbable, even impossible. The safe was supposed to have been carried out of the administration building thru the window which had been broken open. After ascertaining the size of the said safe, Capt. Galvez found that it could not go thru said window whose opening was too small. Again, affiants and defendants in that case assured him that only two of them carried the safe out of the administration building to the place where it was cracked open. Galvez concluded that said safe was too heavy for two men to carry. He also asked them what instruments or implements they used in carrying the safe and in breaking it open and they told him that they did not remember. All these engendered serious doubts in the mind of

the captain who, convinced that the affidavits were worthless and that the affiants were innocent although for some reason unknown to him they admitted participation in the commission of the crime, withdrew the complaint from the justice of the peace court and waste-basketed or otherwise got rid of the affidavits.

About two months later rumors reached Capt. Galvez to the effect that the real culprits were Pedro Melodollar and others. Consequently, Pedro was again arrested and when investigated at the Constabulary headquarters, he confessed to having participated in the commission of the robbery with homicide, even stating that he had taken and kept the carbine of the dead guard Timoteo de la Fuerte. At about midnight of that day, accompanied by Sgt. Garcia and other soldiers, he went to his place in the barrio of Mayondon and under a bamboo grove he dug up a carbine which upon examination proved to be the carbine of the dead guard, bearing the same serial number. The following day (August 6th), Felimon Gibas was arrested and after being questioned, he admitted that he was one of those who committed the crime. Accompanied by Sgt. Garcia, he went to a spot near the bridge in the Forestry section of the College of Agriculture and from a clump of cogon grass he picked up an iron pipe (Exh. K) which they had used to carry the safe away from the office of the disbursing officer.

On August 7th, appellant Maximino Melodollar was arrested and he also admitted participation in the commission of the crime. Apparently acting upon information given by him, he was accompanied by Sgt. Garcia to his (Maximino's) house from where he produced the bolo (Exh. P) with which he and Pedro Melodollar killed the guard Timoteo de la Fuerte, a piece of rope (Exh. M) used in tying up the safe for the purpose of carrying it with the aid of the iron tube, and the pick ax or mattock (Exh. N) which they had used to crack the safe open. The following day Gabriel Gibas was also arrested. He also admitted being one of the culprits, and accompanied by Sgt. Garcia he went to his house and from below it, he produced a .45 Caliber pistol with full magazine (Exh. Q) which he said was the one he had carried with him on the night of the robbery. On the same day (August 8th), Felimon Gibas was accompanied by Sgt. Garcia to his place on the eastern part of barrio Mayondon in the same place where they found Gabriel Gibas and from there he produced an automatic carbine (Exh. R), which according to him, he carried on the night the robbery with homicide was committed. The affidavits of Pedro, Maximino, Felimon and Gabriel were later subscribed and ratified before Fiscal Emmanuel Munoz in the absence of the Justice of the Peace. At the trial they were marked as Exhibits T, V, W, and U, respectively.

In this connection, we may state incidentally that Alfredo Marquez was implicated by the four and so the Constabulary began looking for him. At the time Marquez was living in Manila although his father was residing in Los Banos. According to Marquez when informed by his father that the authorities were looking for him, he voluntarily surrendered to the Constabulary. When questioned he also made an affidavit (Exh. X), also ratified before Fiscal Munoz. Later, the five were charged with the crime of robbery in band with homicide which as already-stated, resulted in the conviction of Pedro Melodollar, Maximino Melodollar, Felimon Gibas and Gabriel Gibas, and the acquittal of Alfredo Marquez.

The theory of the prosecution as to the manner the crime was committed, based mainly on the affidavits of the defendants as well as the testimony of the Government witnesses, and accepted by the trial court and which we in turn find to be a fact is as follows: The defendants Pedro Melodollar, Maximino Melodollar, Felimon Gibas and Gabriel Gibas had agreed to rob the administration building, apparently knowing that the safe kept therein contained a considerable amount of money. The defendants were not strangers to the College of Agriculture. At the time Pedro Melodollar who appears to be the leader and chief conspirator, was employed as an operator of a bulldozer used in the College compound. Felimon Gibas was employed as a nurseryman in the agronomy department of the College, and Gabriel Gibas was working in the poultry section. As employees who were paid on paydays, they most probably had an idea of the approximate amount of money kept in the safe of the disbursing officer just before payday, amounting to several thousand pesos. In fact, two days before the robbery, the

disbursing officer had brought from Manila, P14,600 with which to pay the College personnel. They must have also known that there were armed guards at night with whom they would have to deal before reaching their objective. Starting from their barrio, they arrived at the College compound about eleven o'clock that night of the robbery. From a distance they saw Timoteo de la Fuente armed with a carbine, standing near the administration building. In order to avoid any fight or commotion which would attract the attention of the other guards, Pedro approached De la Fuente saying that he was looking for his carabao. While thus engaged in conversation, Maximino Melodollar approached the guard from behind and with a blunt instrument struck him a tremendous blow on the back of the head. The guard fell to the ground probably dizzy or unconscious and Maximino unsheating his bolo, slashed his neck several times. To be sure and finish him, Maximino gave the bolo to Pedro who also struck the prostrate guard on the neck several times. Then Pedro confiscated the carbine of the deceased. They all then proceeded to the administration building. By means of a ladder placed against the wall, Pedro climbed to a window and with the bolo punched holes through the window shell big enough for him to insert his hand to unlock the latch inside. Opening the window, he and Maximino entered the building and then they opened the main door for their companions to enter. They then went into the office of the disbursing officer and with the use of the rope and the iron pipe they carried the safe out of the building and down to the creek about two hundred meters away. There, they cracked the safe open, ransacked its contents and carried away the cash amounting to about P22,000.00, leaving notes, warrants and small coins amounting to about P480.00 scattered on the ground around the safe. That same night they divided among them the greater part of the loot Pedro keeping the rest, later doling out to his companions additional amounts to complete their shares.

In view of the acquittal of Alfredo Marquez and the withdrawal of the appeal of Maximino Melodollar, we deem it unnecessary to further discuss their participation or alleged non-participation in the commission of the crime. We shall confine ourselves to the appeal of Pedro, Felimon and Gabriel, and consider their separate briefs as well as that of the Solicitor-General, in connection with the trial court's decision.

All three appellants insist that the confessions contained in their affidavits were not voluntary because they were made after being subjected to severe punishment and torture. On this point as well as on the claim of the prosecution witnesses that these appellants had produced from the places they had hidden, the instruments used in the course of and in the commission of the crime, the credibility of witnesses is involved. The trial court presided over by Judge Fidel Ibanez after listening to the oral evidence and observing the witnesses while testifying gave credit to the Government witnesses and did not believe the defendants and their witnesses. We find nothing in the record to disturb or modify this attitude, ruling and act of the trial court. We could only add that if these appellants had really been tortured in the manner they described to the court, namely, that they had repeatedly and mercilessly been kicked, punched and struck with the butt of a rifle and pieces of wood on different parts of the body, including inserting bullets between the fingers and later applying pressure on the hand in order to produce intense pain, necessarily resulting in swelling, bruises, wounds and other forms of physical injury, Fiscal Munoz, before whom they appeared two or three days after such alleged severe punishment, would have easily seen such injuries, but he noted nothing on their bodies in the way of physical injuries, swelling, cuts or scars. He advised them that he was there to protect them and that if they had any complaint to make, they were free to do so and he would help them. They uttered not a single word of protest nor aired any grievance. He read to them the contents of their affidavits in the language or dialect they understood and they told him that they were all true and correct. The peace officers who prepared these affidavits based on the answers given by the affiants assured the trial court that the statements were given freely and voluntarily. Felimon Gibas admitted during the trial that his relatives, including his wife were allowed by the Constabulary to visit him and they actually visited him, and this according to him after he had been tortured and when his wounds were still fresh. If the soldiers permitted his family and relatives to visit him, we may safely conclude that they had nothing to hide for which they might be prosecuted

for torturing prisoners. If Felimon had really been wounded, he never asked for the services of a physician. Neither did he ask his wife to call one. On the contrary, he told his wife that he had been well treated by the Constabulary.

Appellants next insinuate that the real culprits and perpetrators of the crime were the four persons originally accused by Capt. Galvez, namely: Honorio Maligalig, Alejo Maligalig, Estefano Villegas and Bonifacio Albez, and that the act of the captain in dropping the complaint against them and destroying their affidavits is most intriguing; and incidentally they invite attention to the rule and doctrine that evidence suppressed is to be presumed adverse to the party suppressing it. We agree that the suppression was improper, for the mere dropping of the case was not sufficient reason for the Constabulary represented by Capt. Galvez to get rid of the affidavits of the original defendants whom he accused in the justice of the peace court. Said affidavits might throw some light on this case. However, another view of the conduct of Capt. Galvez is that a further study of the case against said four original defendants in connection with their affidavits convinced him that they were not telling the truth; that the crime could not have been committed in the manner described by them, and that the real culprits were others, then the only thing to do was to ask for the dismissal of the complaint erroneously filed by him and to continue his investigation for the purpose of finding and prosecuting the real offenders, and incidentally he threw away the affidavits as of no further use. Besides, as the trial court observed:

"It is very incredible that the peace officers who conducted a thorough investigation of the crime for several months before formulating the charge against the present defendants, would have aided the guilty and oppressed the innocent without any sufficiently compelling motive having been shown to induce them to be unfaithful to their duties, and no such motive appears in the evidence. Filemon and Gabriel, in their attempt to build barriers against self-incrimination, had to admit knowledge of certain antecedent facts connected with the commission of the crime and to point at other persons as the culprits. In so doing, they have stuffed their story with statements leading to incongruities that the curtains they have set up to cover their guilt reveal their very transparency."

Another defense put up by appellants is that of alibi. We agree with the trial court that their claim in this respect must be rejected either as most improbable or that even if they were actually in the places they claim to have been on the night when the robbery was committed, because of the proximity of those places to the scene of the crime, they could very well and easily have gone to the administration building, killed the guard and carried away the safe. The story of appellants, to the effect that Honorio Maligalig and his three companions on the day the crime was committed had been going around proposing to and urging Pedro Melodollar and Felimon Gibas to join them to pull a big job and make a lot of money, when there was no intimacy or close relationship between them, and repeating the proposal in the evening in a voice loud enough, for others to hear, is quite improbable and merits no consideration. Alejo Maligalig on rebuttal stoutly denied that he ever made such proposal.

In conclusion we find the three appellants guilty of the crime of robbery with homicide. The decision appealed from is hereby affirmed, with costs.

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

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