

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BEN PAREDES, ET AL, DEFENDANTS, BEN PAREDES, MANUEL MAMURI AND PROTASIO A. SANTOS, DEFENDANTS-APPELLANTS. THE PEOPLE OF TH...

G.R. Nos. L-19149-50. August 16, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

This is an appeal by Ben Paredes, Protasio Santos and Pascual Bartolome from the decision of the Court of First Instance of Isabela finding them, along with Conrado de Leon, Ruben Concepcion and Manuel Mamuri, guilty of the crime of robbery with homicide and sentencing them to the penalty of reclusion perpetua, with the accessory penalty of the law, to indemnify jointly and severally the heirs of the deceased Chua Nai Su in the sum of P6,000.00 and the Insular-Yebana Tobacco Corporation in the sum of P10,000.00, the cash money robbed by the accused, and to pay the costs proportionately.

It appears that on April 26, 1960, Chua Nai Su, was accosted and shot inside a pick-up truck belonging to the Insular-Yebana Tobacco Corporation, shortly after the said vehicle had left the Company warehouse and crossed the gate of its compound at Barrio Palattao, Naguilian, Isabela. Apparently terrified, the driver of the pick-up truck immediately got off the vehicle, ran back to the warehouse, and escaped from the place un-harmed. The Chinaman Chua Nai Su, then critically wounded, tried to follow his driver; but unlike the latter, he did not make good his escape - he fell dead a short distance from the guard house of the company near the gate. And soon afterwards, the perpetrators of the crime were seen hurriedly leaving the place, using in their flight the very same pick-up truck previously ridden by Chua Nai Su and his driver.

Upon some unexpected turn of events, the details of which We shall herein discuss later as We review the evidence, accused Conrado de Leon was picked up for in-vestigation by officers of the Philippine Constabulary at his place of residence in Minanga, Naguilian, Isabela, in the morning of April 27, 1960. He was brought to the PC headquarters at Ilagan at about noon time of the same day where he was questioned about the incident that led to the death of Chua Nai Su. The statement he gave then to the investigating officers led to the subsequent arrest of accused Ruben Concepcion and Aurelio Tattoc in Solano, Nueva Vizcaya, their place of residence, on April 28, 1960, and the apprehension of accused Ben Paredes in the morning of April 29, 1960. Ruben Concepcion, Conrado de Leon and Aurelio Tattoc then admitted their respective participation in the incident that brought about the death of Chua Nai Su on April 26, 1960; and on the strength of the extra-judicial confessions they executed, an Information for Robbery with Homicide was filed against them on the same day, including accused Ben Paredes and Manuel Mamuri whom Concepcion, de Leon and Tattoc had implicated. The case was docketed as Criminal Case No. 2702.

On June 9, 1960, a separate Information was filed by the Provincial Fiscal of Isabela against accused Protasio Santos, Chief of Police of Naguilian, for the same crime of Robbery with Homicide of which the other

above-named accused had been previously charged. This was docketed as Criminal Case No. 2718 of the same court. When both Criminal Cases Nos. 2702 and 2718 were later called for hearing on June 23, 1960, the Provincial Fiscal filed an Amended Information for the purpose of consolidating the two cases for the reason that the charge in both informations was identical. The Amended Information was admitted by the trial court which allowed the consolidation of the said cases to be henceforth known as Criminal Case No. 2702. Thereafter, the prosecution moved for the discharge of accused Aurelio Tottoc in order to utilize him as state witness. The petition was granted by the court on the same day, June 23, 1960.

All the accused, except Manuel Mamuri who was then still at large, entered pleas of "not guilty" when they were arraigned under the Amended Information. Trial on the merits began immediately thereafter. Accused Manuel Mamuri later gave himself up to the authorities. Governor Jose Espino of Nueva Vizcaya delivered the person of this accused to Governor Melanio Singson of Isabela, who, on the same date, July 14, 1960, turned over the custody of Manuel Mamuri to the Philippine Constabulary Command at Ilagan. He, likewise, pleaded "not guilty" to the charge when he was later arraigned.

On September 14, 1960, the Provincial Fiscal of Isabela filed another information charging Pascual Bartolome with the same crime of Robbery with Homicide. This was docketed as Criminal Case No. 2773. Pascual Bartolome was arraigned on September 22, 1960, where-upon, said accused also entered a plea of "not guilty". Upon petition of the prosecution and without objection on the part of counsel for accused Pascual Bartolome, Criminal Cases Nos. 2702 and 2773 were tried jointly. On the same occasion, counsel for accused Ruben Concepcion made manifest before the court the desire of his client to withdraw his previous plea of "not guilty". Said accused then pleaded guilty to the charge. He was allowed to present evidence to prove the mitigating circumstances of voluntary surrender and intoxication he invoked. In the afternoon of the same day, he was accordingly sentenced. Sometime thereafter, Ruben Concepcion was utilized as witness for the prosecution.

After a long but speedy trial of the cases against the five remaining accused, the trial court handed down its joint decision in the two cases under which, as earlier mentioned, Ben Paredes, Conrado de Leon, Manuel Mamuri, Protasio Santos, and Pascual Bartolome now stand convicted of the crime of Robbery with Homicide with which they were charged.

Ben Paredes, Protasio Santos and Pascual Bartolome have appealed from the decision; Manuel Mamuri, likewise gave notice of his appeal, but withdrew the same on December 7, 1961; and Conrado de Leon did not appeal from the decision.

Our own examination of the record revealed the following account of the circumstances surrounding the commission of the crime of which herein appellants now stand convicted.

On April 17, 1960, accused Ruben Concepcion, a native of Solano, Nueva Vizcaya, went to the town of Santiago, Isabela, for some personal business. He met there accused Conrado de Leon of Naguilian, Isabela, a good friend he had known since 1957. Conrado broached out the idea that they could make money for themselves by effecting the hold-up of a wealthy Chinaman, a leaf to-bacco dealer in his hometown of Naguilian. Ruben did not readily give assent to Conrado's idea; so, the former was given time by the latter to think it over. Before they parted, however, Conrado de Leon suggested that Ruben Concepcion should bring some companions to help them carry out the hold-up should he finally agree to the aforesaid proposition. It did not take him long to make up his mind after his return to Solano, Nueva Vizcaya, for a few days later, Ruben Concepcion decided to look for his friends in Naguilian, taking along with him accused Manuel Mamuri and Aurelio Tottoc, his cohorts from Solano.

On April 25, 1960, accused Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc boarded a Rural Transit bus

in Solana, Nueva Vizcaya, bound for Naguilian, Isa-bela. The bus they took made a stop at the town of Santiago, and the trio had their lunch there; there-after, they boarded the same bus again and proceeded to Naguilian. They alighted at the Minanga-Minallo junction on the national highway to the town proper of Naguilian. For reasons not clear in the record, the trio from Solano saw at the junction, waiting in a parked rig, the accused Conrado de Leon who, upon seeing them, welcomed the newcomers and brought them along with him to his place of re-sidence in the Barrio of Minanga. Conrado did not receive his visitors in his own house however; he left them on the side of the road and brought home some bread he was then carrying; and thereafter, the four of them hiked to the centro of Naguilian, arriving at the house of accused Ben Paredes near the municipal building at about 6:30 o'clock in the evening of that day. Conrado de Leon in-troduced the trio from Solano to Ben Paredes saying "here are the guys". To this, Ben Paredes answered "let us talk later on". He immediately had the table set first for supper - his dwelling house being a small res-taurant in which Conrado de Leon, Ruben Concepcion, Manuel Mamuri, Aurelio Tottoc and the accommodating host ate to-gether. Later, Ben Paredes told his guests that they should rest for the night in the municipal building near-by to which he accompanied Conrado de Leon and the trio from Solano after eating. The policeman on duty allowed the group to sleep in one of the rooms on the second floor of the municipal building, Ben Paredes who had brought them along, being a former Sergeant of Police of Naguilian. Once upstairs, Ben Paredes, Conrado de Leon and Ruben Concepcion had a conference about their plan to rob the rich Chinaman while Manuel Mamuri and Aurelio Tottoc were lying on the mat on the floor nearby listen-ing to them. They finally agreed to go to Barrio Pala-ttao on the following morning to view and familiarize themselves with the location of the warehouse of the Insular-Yebana Tobacco Corporation where the wealthy toba-cco leaf dealer, Chinaman Chua Nai Su, held office. Ben Paredes returned to his house nearby that evening while the trio from Solano, together with Conrado de Leon, stayed and slept overnight in the municipal building.

Very early the following morning, April 26, 1960, Conrado de Leon brought back the trio from Solano to the house of Ben Paredes where they had their breakfast. And as previously agreed upon the night before in the munici-pal building, Ben Paredes, Corrado de Leon, Ruben Concep-cion and Manuel Mamuri left for Palattao immediately after eating. Before reaching the place of the warehouse of the Insular-Yebana Tobacco Corporation, however, the foursome made a short stop at a "kiosko" near the junc-tion of the national highway and an old road. Ruben Con-cepcion and Manuel Mamuri were left there for a while by Ben Paredes and Conrado de Leon who passed by the house of accused Pascual Bartolome some thirty meters away. When they returned, they had with them an old man, Pas-cual Bartolome. Ben Paredes introduced Ruben Concepcion and Manuel Mamuri to the old man at the "kiosko", refer-ring to them as the "persons called by Conrado de Leon". The old man was pleased to see the "hatchetmen" brought by Conrado de Leon to liquidate the Chinaman whom accused Pascual Bartolome referred to as a "boastful and arro-gant" man. Pascual Bartolome then promised to give them a reward of P500.00 provided they would kill the China-man, and if they could not rob any amount from him, they would receive P1,000.00. Scarcely after the old man had given the aforesaid inducement, the Chinaman Chua Nai Su passed by in the pick-up of the Insular-Yebana Tobacco Corporation, heading towards the place where the company warehouse was located; so the group hurriedly went to the house of the old man where other matters relative to the robbery were taken up. Pascual Bartolome reiterated his promise to make good his commitment to the group. Then the old man left ahead for the town, leaving word that they shall meet again in the Office of the Justice of the Peace. Ben Paredes hitched a ride from an overloaded passenger bus that passed by the place, telling his companions to follow him to the appointed place of the ware horse. Conrado de Leon, Ruben Concepcion and Manuel Mamuri hiked on the national highway until they reached the gate of the compound of the Insular-Yebana Tobacco Corporation. Ruben Concepcion and Manuel Mamuri viewed the place from under the shade of a big acacia tree out-side the fence of the company, while Ben Paredes walked to and fro on the national highway passing twice in front of the compound of the warehouse. After sometime, the group returned to Naguilian in the

restaurant of Ben Paredes.

In the house of Ben Paredes, Ruben Concepcion, Conrado de Leon, Manuel Mamuri and Ben Paredes found Chief of Police Protasio Santos waiting for them. The latter informed them that the Justice of the Peace of the town was calling for them; so, Ben Paredes, Ruben Concepcion, Conrado de Leon and Manuel Mamuri followed the Chief of Police to the municipal building where they met with Judge Domingo Garcia, Mayor Serafin Garcia and the old man Pascual Bartolome. The three municipal officials, namely, the Justice of the Peace, the Mayor and the Chief of Police, gave further inducement to the other conspirators. They gave the promise that should they succeed in killing the Chinaman, they would sell the lot where the warehouse of the Insular-Yebana Tobacco Company is situated and divide the proceeds of the sale among themselves. The lot referred to was formerly owned by accused Pascual Bartolome who sold the same to the Insular-Yebana Tobacco Corporation. The said town officials gave further assurance that nothing shall happen to them for, anyway, they should be "the ones to investigate the case."

After the conference in the office of the Justice of the Peace in the municipal building of Naguilian, Ben Paredes, Ruben Concepcion, Conrado de Leon, Manuel Mamuri and Chief of Police Protasio Santos went back to the house of Ben Paredes. Ruben Concepcion asked for the firearms to be used. Accused Protasio Santos gave his nickel-plated revolver Cal. 38 to Ben Paredes who in turn gave it to Conrado de Leon together with his own black revolver Cal. 38. Conrado de Leon then called Ruben Concepcion and Aurelio Tottoc to the back of the house, where he gave the black revolver of Ben Paredes to Ruben Concepcion, and delivered the nickel-plated revolver of the Chief of Police Protasio Santos to Aurelio Tottoc for them to use in the hold-up. Then Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc boarded a bus to Palatiao which they reached before 10:00 o'clock. They alighted in front of the big acacia tree about 20 meters from the gate of the warehouse which they had viewed earlier that same morning and waited for the Chinaman Chua Nai Su to come out of the warehouse where he had his office. As expected, the trio from Solano saw Chua Nai Su board the company pick-up which was then parked in front of the warehouse. Soon the vehicle moved backwards and out of the gate of the fence, turning towards the south on the road to Cauayan, Isabela. At this precise time, Ruben Concepcion rushed forward and caught up with the vehicle at a point about four meters from the gate. He stepped on the running board on the right side of the pick-up; simultaneously, Manuel Mamuri dashed towards the left side of the vehicle, while Aurelio Tottoc posted himself behind the rear of the pick-up. Ruben Concepcion then poked his revolver on the Chinaman inside the pick-up. Chua Nai Su tried to parry off the gun held by Ruben Concepcion, but the latter fired at him twice in succession. Apparently terrified, the driver of the pick-up got off the vehicle on the left side and ran towards the warehouse; he escaped unharmed. The Chinaman tried to follow suit by moving to the left door of the pick-up where the driver got off. Ruben Concepcion, however, also moved over to other side of the vehicle and met Chua Nai Su there after firing one shot in the air. The Chinaman pushed Ruben Concepcion aside and ran towards the gate, but the latter fired another shot at the running Chua Nai Su who fell dead before reaching the company guardhouse near the gate of the compound. Then and there, Ruben Concepcion ordered Manuel Mamuri to take the wheel of the pick-up which the latter drove away towards Ilagan with Ruben Concepcion, occupying the seat formerly had by the Chinaman, and Aurelio Tottoc seated just behind Manuel Mamuri. Upon reaching a small concrete bridge within the territorial jurisdiction of Naguilian, Ruben Concepcion ordered Manuel Mamuri to swerve the pick-up to the right into a nearby ravine with bushes, and the vehicle came to a halt. Forthwith the trio ransacked the seat of the pick-up and found the portfolio of the Chinaman which they took away with them passing thru the fields. At a place where there was a thick growth of cogon grass, they counted the money inside the portfolio and found that it contained P400.00 in different denominations. Ruben Concepcion took the money and told Manuel Mamuri and Aurelio Tottoc to go ahead to the house of Ben Paredes where he met them later. He had to pass by a river to wash out the stains of blood on his clothes. Ben Paredes was not in his house when the

trio came, so Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc had to tarry a while and wait for him. It was already 3:00 p.m. when Ben Paredes and Conrado de Leon showed up, followed by the Chief of Police Protasio Santos still a little later. The latter immediately ordered the trio to change their clothes which Ruben, Manuel and Aurelio followed. Aurelio Tottoc placed the nickel-plated gun he carried on the floor under a pillow which, Ruben Concepcion picked and returned to Chief of Police Protasio Santos. Ruben Concepcion, on the other hand, returned the black revolver he used in shooting the Chinaman to Ben Paredes. Thereafter, Ruben Concepcion brought out the P400.00 they found inside the portfolio of Chua Nai Su and gave P200.00 to Ben Paredes who gave P50.00 to Conrado de Leon as his share in the booty. Protasio Santos refused to get the remaining amount of the P200.00 when Ben Paredes offered it to him, saying "I am go-ing to investigate if that was really the amount they got." Reminded by Ruben Concepcion about the monetary reward promised by Pascual Bartolome, Chief of Police Santos advised the trio to come back some other day with the promise that he would take care of the collection of the money. Immediately thereafter, the trio from Solano, accompanied by Ben Paredes and Conrado de Leon boarded a bus bound for Ilagan where they all ate supper in a restaurant. From there, Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc left for Solano, Nueva Vizcaya, while Ben Paredes and Conrado de Leon returned to Naguilian, Isabela, arriving thereat at about 5:00 o'clock in the afternoon.

Meanwhile, news about the killing of Chinaman Chua Nai Su near the warehouse of the Insular-Yebana Tobacco Corporation in Barrio Palatao, Naguilian reached the authorities of the town before noon time on that same day of the incident. In the afternoon, Chief of Police Protasio Santos repaired to the premises of the said company and conducted an on-the-spot investigation of the case. The then Barrio Lieutenant of Malapyap, San Mariano, Isabela, also reported the incident to the PC Command at Ilagan, same province, and Capt. Fonacier and Capt. Manalo appeared at the scene of the crime that same afternoon and conducted their own investigation. They were followed still later on by Capt. Achanzar. These PC officers were informed by the employees of the Insular-Yebana Tobacco Corporation that the triggerman wore a slight brown checkered polo shirt with long sleeves, upon which information, Captains Fonacier and Manalo left the place to look for the robbers-killers. Shortly, thereafter, Chief of Police Protasio Santos also left the place, taking along with him to the municipal building, Hermenegildo Cabucan, the driver of the pick-up ridden by the victim at the time of the robbery, and a carpenter of the company, Andrea Domingo. On the same day, the body of the victim, Chua Nai Su, was autopsied at the very scene of the crime by the Assistant Provincial Health Officer of Isabela. He found in the body of the Chinaman a gunshot wound about one centimeter in diameter, directed downward from the point of entry about three inches from the right nipple, fracturing the 8th rib and damaging the liver. The slug was recovered between the skin and the soft tissue at the left back near the angle of the left costal arch where a dark swollen area was noted. Another gunshot wound was found to have penetrated the right forearm of the victim through and through. The doctor testified that the cause of death was internal hemorrhage due to the involvement of some vital organs of the body.

From the scene of the crime, Captain Manalo went to Naguilian to look for the robbers, with only the description of the polo shirt worn by the triggerman as described by the eyewitnesses to guide him. On his way, he met by chance Hilario Tomines who was then wearing a polo shirt which he figured answered the description given by employees of the Insular-Yebana Tobacco Corporation; and with the suspicion that he might be the triggerman, he picked him up for questioning. Hilario Tomines denied any knowledge about the robbery when he was brought and questioned by Capt. Manalo in the house of Ernesto Yap in Naguilian. He recounted, however, that he saw a man who rode on the same bus that he took from Reina Mercedes to Naguilian in the afternoon of April 25, 1960, wearing a checkered polo shirt similar in appearance to the one he was wearing; that he saw this man with companions get off the bus they were riding at the Minanga-Minallo junction on the national highway in Naguilian where he also alighted; that he saw this man and his companions talked for sometime with Conrado de

Leon, after which he saw them leave the place together going to Naguilian; and that he saw the same man early in the morning of April 26, 1960, walking on the road going to Palattao with Ben Paredes. With this new information as a lead, Capt. Manalo left the place to report the matter to Capt. Achanzar.

It appears that Captain Achanzar had left the compound of the Insular-Yebana Tobacco Corporation at the time and gone to the municipal building of Naguilian, where he found accused Protasio Santos (Chief of Police) interrogating Cabucan, the driver of the pick-up where the Chinaman was shot. Upon seeing the PC Captain, Andres Domingo, the other man picked up by the Chief of Police at the scene of the crime for questioning, approached him (Captain Achanzar) and complained that Chief of Police Protasio Santos had been trying to force them into admitting that the killing of Chua Nai Su was an inside job; and that Ben Paredes had shrugged his shoulders advising them to admit the fact that they were the authors of the crime. So much so, that Captain Achanzar had to warn Chief of Police Protasio Santos not to add anything or make alterations in their statements. As Captain Achanzar made the warning to Chief of Police Santos, he noticed that Ben Paredes had surreptitiously left the investigation room. He immediately followed Ben Paredes down the municipal building. But just then, Capt. Manalo appeared and informed Capt. Achanzar about the information given by Hilario Tomines; and forthwith, the two PC officers left the municipal building to see Hilario Tomines in the house of Ernesto Yap.

While Hilario Tomines was being investigated by Capt. Achanzar in the house of Ernesto Yap, Chief of Police Protasio Santos proposed to Hermenegildo Cabucan and Andres Domingo that if they could not admit their involvement in the commission of the crime, he would release them and be amenable if they could state in their affidavits that they did not recognize the perpetrators of the crime and could not identify them even if they should see them again; and that they did not hear any gun reports. To this, the two employees of the Insular-Yebana Tobacco Corporation acceded; so, their respective affidavits were taken down, containing their own declarations and the facts above-stated which the Chief of Police required them to admit. As promised by the said Chief of Police, Cabucan and Domingo were allowed to go home after they had signed their respective affidavits.

Relying upon the information given by Hilario Tomines that Conrado de Leon was with the three unknown men who rode with Tomines in a bus in the afternoon of April 25, 1960, Captain Achanzar proceeded to the house of Conrado de Leon that same evening of April 26, 1960. He arrived at the house of Conrado de Leon in Barrio Minanga between 6:00 or 7:00 o'clock. Conrado de Leon was then out of the house. His wife informed Captain Achanzar and his companions that her husband left for Santiago about a week before. Capt. Achanzar, however, decided to stay for about 20 minutes hoping that Conrado de Leon might return to the house that evening. Capt. Achanzar was not mistaken in his expectation, for shortly thereafter, Conrado de Leon showed up with a bag in each hand, one made of buri and the other made of canvas. From the answers given by Conrado de Leon to the questions propounded by Capt. Achanzar then and there, the latter suspected that the wife had lied to him with a desire to mislead the authorities as to the whereabouts of her husband; so, Capt. Achanzar decided to search the bags Conrado de Leon had then which yielded men's clothings, one of which was a checkered light brown polo shirt with long sleeves. And as the appearance of the polo shirt coincided with the description of the one worn by the person seen with Conrado de Leon in the afternoon of April 25, 1960, as described by Hilario Tomines and also with the color of the shirt worn by the triggerman at the time of the robbery as described by eyewitnesses to the killing of the Chinaman, Capt. Achanzar took special interest in the said polo shirt. His suspicion was further aroused by the fact that as against the claim of Conrado de Leon that the clothings in the canvas bag belonged to him, Sgt. Bruno who was then with Capt. Achanzar found out that the shirts and pants were of different sizes. These circumstances prompted Capt. Achanzar to seize the checkered polo shirt with long sleeves with the promise to return the same later, and for which he caused Conrado de Leon to sign a receipt.

From Minanga, Capt. Achanzar brought the polo shirt to Palattao and had it identified by the employees of the

Insular-Yebana Tobacco Corporation who readily declared that the said polo shirt was similar to the one used by the triggerman. Upon further examination of the seized polo shirt in the following morning of April 27, 1960, the captain discovered that the shirt contained blood stains on the right sleeve which he failed to notice the night before while in the house of Conrado de Leon because of the poor light. With these findings, Capt. Achanzar and Capt. Fonacier with some soldiers returned immediately to Barrio Minanga and arrested Conrado de Leon. The latter was brought to the PC headquarters at Ilagan about noon time of the same day. Upon being questioned about the killing of the Chinaman, Conrado de Leon readily admitted his participation in the robbery, mentioning at the same time that his companions in connection with the hold-up of Chua Nai Su were Ben Paredes, Ruben Concepcion, Aurelio Tottoc, Manuel Mamuri, Jose Talambas and Benny Alamadrid. His written statement to this effect was taken down by the PC officers late in the afternoon of that same day. This state-ment (Exhibit NN), however, remained unsigned; for when Sgt. Bruno accompanied Conrado de Leon to the Office of the Justice of the Peace of Ilagan, on the following morning of April 28 to have it signed and sworn to by him, Conrado de Leon revealed to Judge Mina that the names Jose Talambas and Benny Alamadrid he had mentioned in his statement were fictitious persons. And when Judge Mina questioned him why he had mentioned the said fictitious persons, Conrado de Leon claimed that he had been maltreated by Capt. Fona-cier of the PC and his soldiers. This revelations of ac-cused Conrado de Leon prompted Judge Mina to call for the Municipal Health Officer of the town, Dr. Jose Valdez, and had him examined in his office. The latter, however, in-formed Judge Mina after conducting a physical examination on the body of Conrado de Leon that there was no sign of violence on his body; and accordingly, Judge Mina wrote on the reverse side of Conrado de Leon's written statement that such proceedings took place before him. This hand written notation (Exhibit NN-1) was identified by Judge Mina during the trial. Sergeant Bruno also attached to the unsigned statement of Conrado de Leon, the certifica-tion of the Municipal Health Officer of Ilagan to the effect that he did not find any signs of physical violence on the body of Conrado de Leon. Dr. Valdez later identi-fied his certification (Exhibit MM) when he testified for the State.

Back at the PC barracks in Ilagan, Conrado de Leon was interrogated once again as to who were his real com-panions in the perpetration of the hold-up of Chua Nai Su, and Conrado de Leon reiterated his previous statement that his companions were Ben Paredes, Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc, this time eliminating the names of Jose Talambas and Benny Alamadrid. An arrest-ing party headed by Capt. Fonacier was then sent to Solano, Nueva Vizcaya, to arrest Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc who were then all residents of the place. The party returned to Ilagan on the following day with the arrest of Ruben Concepcion and Aurelio Tottoc. Manuel Mamuri eluded arrest; he fled to Manila the day be-fore the coming of the PC soldiers to Solano. Accused Ben Paredes was, likewise, arrested in Naguilian, Isabela, early in the morning of that same day, April 29, 1960, barely three days after the robbery.

Confronted with the statement of Conrado de Leon at the PC barracks in Ilagan, Isabela, shortly after their arrival at the place, Ruben Concepcion and Aurelio Tottoc readily admitted their participation in the hold-up of Chua Nai Su in Naguilian on April 26, 1960. They named Ben Paredes, Manuel Mamuri and Conrado de Leon as their companions in the commission of the crime, in the presence of the latter. The statement of Ruben Concepcion (Exhibit K) and that of Aurelio Tottoc (Exhibit CC) were then taken and sworn to by them before the Assistant Provincial Fis-cal of the province. Sgt. Bruno, in the presence of Conrado de Leon and the PC officers copied the contents of the unsigned statement (Exh. NN) of Conrado de Leon eli-minating therefrom the names of Jose Talambas and Benny Alamadrid previously pointed to by de Leon as fictitious persons. The said re-written statement (Exhibit M) was thereafter voluntarily signed by Conrado de Leon and sworn to by him before the same Assistant Provincial Fiscal of Isabela on the same day.

Accused Ben Paredes, Protasio Santos and Pascual Bartolome (herein appellants) offered separate defenses of alibi, to overthrow the foregoing evidence for the pro-secution.

Ben Paredes presented evidence tending to show that he never left his restaurant (his house) near the municipal building of Naguilian, Isabela, from 5:00 to 7:00 o'clock in the evening of April 25, 1960; that the only persons present in his place then were he and his wife, his sister-in-law and a helper named Florencio Labatique; that he never had any visitors that evening, much less, Conrado de Leon, Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc; that he neither saw these persons that evening nor accompanied them to sleep in the municipal building; that he never saw these persons take their breakfast in his restaurant in the morning of April 26, 1960, for he was there the whole morning of that day and remembered that only Attorney Pascual of Reina Mercedes with three companions went to his restaurant and stayed there at the time up to 11:00 o'clock; and that he never left his restaurant also in the afternoon of that day. He claimed further that upon his arrest in the morning of April 29, 1960, he was brought to the PC headquarters at Ilagan there he was mercilessly tortured. Capt. Fonacier slapped his ears; Capt. Sarmiento punched his stomach; and the PC soldiers hit him with the butts of their guns. He testified that Capt. Achanzar joined the group of his tormentors the following evening. They altogether slapped and kicked him, then hit him several times with the butts of their guns after taking him to a place between the buildings at the PC barracks. According to him, he was given such "works" in the desire of the PC officers to secure from him the gun used by the triggermen in the killing of Chua Nai Sue and a confession from him admitting his participation in the commission of the robbery. He alleged that he never acceded to such demands; and upon such refusal of his, they molested him further by charging certain telephone wires with electricity coming from a battery box which they connected to his ears and his private parts; that they gave him additional maltreatment by pouring water into his mouth and 7-Up beverage into his nostrils; that the PC officers continued the barbarous treatment from April 29 to 30, during which time he missed three successive meals; and that only after he had continuously refused to admit any participation in the commission of the robbery, was he committed to the provincial jail late in the afternoon of April 30.

For his defense, accused Protasio Santos adduced evidence and tried to prove that in the morning of April 26, 1960, he was in his office in the municipal building of Naguilian; that between the hours of 8:00 and 10:00 in the morning of that day, he was busy investigating a case against Inocencio Ramirez who had allegedly threatened the wife of Juan Bumanlag; that immediately thereafter, he attended to the preliminary investigation of a murder case against Baltazar Pasion in the office of the Justice of the Peace of Naguilian which lasted up to about 11:00 o'clock in the morning of that day; that he never met with accused Ben Paredes that morning; that upon receipt of the news about the robbery-killing in Palattao, he took along Patrolman Cauilan and repaired to the scene of the crime between 12:00 and 1:00 o'clock in the afternoon; that after conducting his own investigation of the case in the premises of the Insular-Yebana Tobacco Corporation, he brought the driver of the Chinaman, Hermenegildo Cabucan and the carpenter of the company, Andres Domingo, to the municipal building of Naguilian for their questioning at about 4:00 o'clock; and that he personally directed the questioning of these employees of the Insular-Yebana Tobacco Corporation whose statements were taken that same afternoon. He recalled that in the afternoon of April 27, 1960, he received information that the pick-up belonging to the said company which was allegedly used by the robbers in their flight from the place of the robbery had been found near a bridge in one of the outer barrios of the town, upon which information he immediately went to the place indicated to investigate; and that he rendered thereafter a "spot report" of his findings to the PC Command in Ilagan. He claimed further that on May 15, 1960, Capt. Achanzar had gone to his house and induced him, either to surrender the revolver that was used in the commission of the crime or to get any other firearm and put it near the vicinity of the house of accused Ben Paredes so that it will be used as evidence against the latter. According to him, he turned down Capt. Achanzar's proposition.

Accused Pascual Bartolome, on the other hand, sought to prove that he never left his residence on that fateful day of April 26, 1960. The evidence presented in his defense tended to show that he and his friend, Irineo Calilao,

made wood floaters for his fishing net near the door of his house during the whole day of April 26, 1960. Both claimed that prosecution witnesses Alberto Ibarra and Vicente Banang never came to or near the house of Pascual Bartolome early in the morning; and neither did they see accused Ben Paredes, Conrado de Leon, Ruben Concepcion and Manuel Mamuri in the said house of Pascual Bartolome in the same morning. He admitted that he had been investigated several times by the PC officers in connection with the robbery, first by Sgt. Santos and later by Capt. Achanzar; but these investigations according to him, amounted to nothing because he really knew nothing about the killing of Chua Nai Su. He testified that when CIS Agent Aslarona picked him up still later on, said official even took him in his jeep all along the road from Palattao to San Mariano and stopped at various sheds on the way, conducting an "off and on" investigation of him, before he was finally brought to the Office of the Provincial Warden at Ilagan. He alleged further that it was while he was in the said office that the CIS agent ordered him to sit down on a chair, after which he called for Ruben Concepcion and instructed the latter to point at him; that it was at that precise moment that another PC soldier took their pictures (Exhibits X, X-1, X-2 and X-3); and that it was also on that occasion that he saw Agent Aslarona draw a prepared document from his portfolio which he later asked Ruben Concepcion to sign.

From our own examination of the evidence of record as above set forth, We find that the perpetration of the crime at bar is beyond dispute. Persuasive are the plea of guilty of accused Ruben Concepcion, by accused Manuel Mamuri's subsequent withdrawal of his appeal, and by the implied admission of guilt of accused Conrado de Leon who did not appeal from the decision. The only question, therefore, for this Court to determine is whether or not herein appellants Ben Paredes, Protasio Santos and Pascual Bartolome had any hand in the commission of the crime of which they now stand convicted.

Appellants contend that the court below had fallen in-to error in giving credence to the testimonies of witnesses for the prosecution; specifically, they assail the reliance placed by the trial court upon the declarations of state witness Aurelio Tottoc and accused Ruben Concepcion who testified for the prosecution after his plea of guilty to the charge, claiming, that these witnesses, being original parties to the crime, are "polluted sources" of evidence; and their testimonies should have been subject to grave suspicion.

We do not find any merit in this claim. There should be no disagreement that the testimony of an accomplice should be received with extreme caution - this is well settled by decisional dicta.[1] But when the testimony of one who has taken part in the commission of a crime is corroborated by other witnesses for the prosecution, the same should be given weight and credence.[2] And this is exactly the situation in this case. State witness Aurelio Tottoc and accused Ruben Concepcion who pleaded guilty to the charge were unanimous in their declaration that in the afternoon of April 25, 1960, they boarded a bus with accused Manuel Mamuri in Santiago, Isabela, bound for the town of Naguilian, said province; that upon reaching Naguilian, they alighted at the Minanga-Minallo junction to meet accused Conrado de Leon; and that after greeting each other, accused Ruben Concepcion inquired from de Leon where they could have the guns to be used in the robbery. These declarations were substantially corroborated by the testimony of witness Hilario Tomines who said that he was in the same bus ridden by Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc that afternoon in coming home to Naguilian from Reina Mercedes; that he also alighted at the same junction of the road in Naguilian where the trio got off the bus; that while he was waiting for a rig at the junction to go home to his barrio, he overheard Ruben Concepcion ask Conrado de Leon, "Could we get this?", which question of Ruben Concepcion was accompanied by the sign with his hand showing the holding of a gun and the pulling of its trigger with the forefinger; and that to the said inquiry of Concepcion, de Leon promptly answered, "In town."

Concepcion and Tottoc declared with unanimity that from the Minanga-Minallo junction, they went with Conrado de Leon to his place of residence in Barrio Minanga, then left together for the town proper of Naguilian to the

house of accused Ben Paredes where they were served supper; that after eating, Ben Paredes accompanied them to the municipal building nearby where they slept that evening; that it was there where certain details of their plan to rob Chua Nai Su were discussed before Ben Paredes returned to his house; and that the following morning, they went back to the house of Ben Paredes with the mat he had supplied and took their breakfast there. Said testimony was corroborated by witness Loreto Remigio, a detention prisoner in the municipal building at the time, who declared that he saw Ben Paredes, Conrado de Leon, Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc in the municipal building that evening; that he saw them talking together in one of the rooms on the second floor before Ben Paredes returned to his house; that he saw Conrado de Leon, Ruben Concepcion, Manuel Mamuri and Aurelio Tottoc leave the municipal building the next morning, with the latter carrying the mat they used the previous night; and that he saw them going to the house of Ben Paredes shortly thereafter.

Both Ruben Concepcion and Aurelio Tottoc testified that they took their breakfast in the house of Ben Paredes that morning of April 26, 1960, after which they left for the Barrio of Palattao. Ruben Concepcion narrated that they first stopped at the "kiosko" in the said barrio where he and Manuel Mamuri were left by Ben Paredes and Conrado de Leon for a short while; that when Paredes and de Leon returned, they were already accompanied by Pascual Bartolome to whom he and Mamuri were introduced by Ben Paredes as the "persons brought by Conrado de Leon"; that Pascual Bartolome then made a promise to give them a reward of P500.00, if they could kill Chua Nai Su with the additional remark that he would make it P1,000.00 should they get no money from the Chinaman during the robbery; that shortly thereafter, Chua Nai Su passed by the road in front of the "kiosko" in his pick-up, and Pascual Bartolome pointed to him saying, "there is the wagon of the boastful Chinaman"; and that later they all decided to proceed to the place of the warehouse of the Insular-Yebana Tobacco Corporation after a short stay in the house of Pascual Bartolome. He was corroborated on this point by witness Vicente Banang who testified that he saw the group that morning conversing at the kiosko; that he saw Pascual Bartolome point to the Chinaman with the sarcastic remark above-mentioned when the latter passed by in his pick-up; and that he also overheard Pascual Bartolome make assurance "that he would comply with his promise" before they left for the house of Pascual Bartolome near the said kiosko. According to Ruben Concepcion, Pascual Bartolome reiterated his promise to give them the reward should they be able to rob and kill the Chinaman, after which he changed his clothes and told them that he would go ahead to the town and meet them later in the office of the Justice of the Peace. This testimony of Ruben Concepcion was corroborated by witness Alberto Ibarra who testified that in the morning of April 26, 1960, on his way to the house of Pascual Bartolome on some personal business, he met Ben Paredes in the vicinity; that the latter asked him then where he was going, and upon his answer that he wanted to see Pascual Bartolome, Ben Paredes remarked that he had been there for quite a long time but had not seen the old man; that he decided to go into the house despite the information given by Ben Paredes, and contrary to the insinuation given by the latter, he found Pascual Bartolome on the ground floor of the house conversing with Conrado de Leon, Ruben Concepcion and Manuel Mamuri; that he did not stay long with them and left as soon as Pascual Bartolome informed him that he could not as yet return the gaso-line he had borrowed; and that from there he passed by the store under the same house to buy cigarettes, where he heard Pascual Bartolome advise Conrado de Leon to finish his coffee and proceed to the warehouse of the Chinaman with the assurance that "the P500.00 he had promised shall be ready anytime". The said meeting in Palattao was also confirmed by the testimony of accused Manuel Mamuri who declared that he went to Palattao with Ruben Concepcion and "another man" that morning of April 26, 1960, and there Ruben Concepcion talked with Pascual Bartolome for about twenty minutes.

Ruben Concepcion testified that from the house of Pascual Bartolome, they went to the place where the warehouse of the Insular-Yebana Tobacco Corporation is situated in Palattao for the purpose of familiarizing themselves with the compound and determine the various points at which each of them would post himself during

the robbery. His testimony on this point was corroborated by witness Hilario Tomines who declared that he saw Ben Paredes with Ruben Concepcion and Manuel Mamuri near the kiosko in Palattao in the morning of April 26, 1960, walking towards the direction of the Insular-Yebana Tobacco Corporation; that as the passenger bus he was riding then passed by the said kiosko, Ben Paredes managed to get a ride on the running board of the overloaded bus; and that as the bus left, Ben Paredes told his companions "to follow him".

Ruben Concepcion testified further that immediately after their survey of the premises of the warehouse in Pala-ttao, they all returned to Naguilian to the house of Ben Paredes; that they found there Chief of Police Protasio Santos who informed them that the Justice of the Peace was calling for them; that they followed the Chief of Police to the municipal building where they met with Justice of the Peace Domingo Garcia, Mayor Serafin Garcia and the old man Pascual Bartolome; that these officials, including Chief of Police Protasio Santos, gave them further inducement to commit the robbery with their promise that they would have the land occupied by the warehouse of the Chinaman and divide the proceeds among themselves after they shall have robbed and killed the said Chinaman; and that they all promised them immunity with the assurance that nothing shall be done to them, for any way, they should be the very officials who should investigate the case. This is partly corroborated by the testimony of accused Manuel Mamuri who, in spite of his attempt to exculpate himself from any liability for the crime during the trial, admitted that upon their return to the centro of Naguilian from Palattao, Ruben Concepcion went to the municipal building; that shortly after Ruben Concepcion had gone up the building, he also noticed the arrival of the Mayor and the Justice of the Peace; and that Ruben Concepcion stayed inside the municipal building for about half an hour.

Aurelio Tottoc and Ruben Concepcion were unanimous in their testimonies that the guns used in the robbery were supplied by Protasio Santos and Ben Paredes in the house of the latter shortly before they returned to Palattao that same morning to effect the hold-up of Chinaman Chua Nai Su; that the same weapons were returned to them immediately upon their return to the house of Ben Paredes after the commission of the robbery; that half of the P400.00 they found inside the portfolio of the victim went to Ben Pare-des and Conrado de Leon, however, Chief of Police Protasio Santos refusing to receive his share thereof because he would not believe that the sum of P400.00 was the only amount they got from the hold-up, and for which reason he told Ben Paredes to hold the share pertaining to them first until he shall have conducted his own investigation of the case; and that it was Protasio Santos who advised them to change their clothes before their flight to Ilagan that same afternoon, advising them to return to Naguilian some other day or the reward of P500.00 promise by Pascual Bartolome, with the assurance that he would "take care" of its collection.

Both Aurelio Tottoc and Ruben Concepcion were also agreed in their declarations before the court that they left the house of Ben Paredes in Naguilian bound for Ilagan at about 3:00 o'clock in the afternoon of that day, April 26, 1960, along with Manuel Mamuri, Conrado de Leon and Ben Paredes; and that they ate together in a restaurant upon reaching Ilagan, Isabela where they parted ways, their group taking a bus bound for their hometown of Solano, Nueva Viscaya, while Ben Paredes and Conrado de Leon returned to Naguilian. This was partly corroborated by the testimony of accused Manuel Mamuri who admitted that Ruben Concepcion, Aurelio Tottoc and he fled from Naguilian in the afternoon of the day they committed the robbery-hold-up of Chinaman Chua Nai Su, accompanied by Conrado de Leon and "another person" who boarded the same bus with them up to Ilagan where they separated. All these affirmations in court, indeed, constitute a great avalanche of evidence against herein appellants, and militate against their claim that the testimonies of state witness Aurelio Tottoc and accused Ruben Concepcion who pleaded guilty to the charge are incredible, simply because they took part in the commission of the robbery in question.

Appellants Protasio Santos and Pascual Bartolome, however, would try to make capital of the circumstance that

they were charged in court for the same offense imputed to the other accused much later than the rest, pointing out, that while the Information against Conrado de Loon, Ruben Concepcion, Aurelio Tottoc, Ben Paredes and Manuel Mamuri was filed on April 29, 1960, the separate Informations against them (Protasio Santos and Pascual Bartolome) for the same offense were filed only on June 9 and September 14, 1960, respectively. Hence, they claim that the imputation of the crime against them was but an attempt on the part of accused Ruben Concepcion to drag them into the quagmire he was already in, after the failure of the latter to extort money from them. We are not impressed with this argument either. Appellants Protasio Santos and Pascual Bartolome had tried hard to prove during the trial that accused Ruben Concepcion had tried to extort money from them but did not succeed in their attempt for, on the contrary, the evidence tends to show that they were the ones who tried their best to be good to the said accused, giving rice and provisions to his family even after Ruben Concepcion had changed his plea from "not guilty" to "guilty", apparently, in their hope that he would somehow try to exonerate them from any liability. And above all, the evidence is clear that they were not included in the original Information for the simple reason that when the same was filed on April 29, 1960, the prosecution did not as yet have the necessary evidence against them to warrant their inclusion in the said Information.

But said appellants point out the fact that when accused Conrado de Leon, Ruben Concepcion and Aurelio Tottoc executed their extra-judicial confessions on the same date, April 29, 1960 (three days after the commission of the robbery), said accused made no mention whatsoever of their participation in the perpetration of the robbery. Again, We have to declare that this is not entirely correct. For it is significant to note that in the extra-judicial confession (Exh. M) executed by accused Conrado de Leon on the said date, it was already revealed that the guns to be used in the robbery would be borrowed from herein appellant Protasio Santos. Be that as it may, however, the fact still remains that during the continuation of the preliminary investigation of the case by the Assistant Provincial Fiscal on May 12, 1960, accused Ruben Concepcion, without being asked, decided to make a clean breast of it all and revealed the participation of Chief of Police Protasio Santos and "an old man" in the perpetration of the robbery. The statement he gave then (Exh. L), became the basis of the separate Information filed against him on June 9, 1960. As against appellant Pascual Bartolome, he was not included in the two Informations already mentioned because it was only after the surrender of accused Manuel Mamuri on July 14, 1960, that the said accused described the role played by herein appellant Pascual Bartolome in his extra-judicial confession (Exh. DD) which he reaffirmed later in another statement (Exh. JJ) he executed on July 18, 1960, before another investigator sent over to the place by higher authorities. To top it all, when the said investigator brought herein appellant Pascual Bartolome to the office of the Provincial Warden in Ilagan on July 28, 1960, for confrontation with accused Ruben Concepcion, the latter readily pointed to him as the "old man" referred to by him in his previous statement (Exh. L) he executed on May 12, 1960; and even as the investigator took down another statement (Exh. FF) of Ruben Concepcion on that occasion wherein the said accused narrated all the participation of herein appellant Pascual Bartolome in his very presence, the latter did not say anything. This circumstance explained further the reason why the Information against herein appellant Pascual Bartolome was filed much later. At any rate, Aurelio Tottoc and Ruben Concepcion explained during the trial why no mention about Protasio Santos and Pascual Bartolome appears in their extra-judicial confessions - one explaining that he did not mention the name of Protasio Santos because he was not asked by the investigator about it, and the other expressing surprise why nothing appears in his statement about their participation in spite of the fact that he allegedly mentioned them during the said investigation. These explanations may not sound convincing enough, but after examining their straightforward declarations in court about the participation of Protasio Santos and Pascual Bartolome in the perpetration of the robbery, We are more than convinced in the credibility of their assertions. Moreover, it may reasonably be presumed that said accused deliberately concealed the part played by said appellants in the robbery; and the reason behind such attempt is not difficult to explain. From the facts and circumstances proven at the trial, We may conclude that Tottoc and Concepcion had done so under the belief that

even after their arrest, the Chief of Police of Naguilian and the other municipal officials of the town who had previously promised them immunity, would come to their aid, and Pascual Bartolome who had promised monetary reward would make good his commitment. They must have realized later, however, after the case against them was filed in the Court of First Instance of the province, that the protection and reward promised by herein appellants were not forthcoming, that is why they soon made up their minds to reveal everything.

Appellant Pascual Bartolome pleads further that he had been denied his constitutional right to confront and cross-examine the witnesses against him during the pro-ceeding in the court below. He anchors his claim upon the circumstance that three witnesses for the prosecution testified long before his arrest and subsequent indictment. We find no merit in this claim, however, for after examining the testimonies of the witnesses referred to, We found nothing in their declarations which touched upon his participation in the robbery; and while it is true that he was convicted by the trial court, the said conviction was based upon facts established by other evidence of record. Suffice it to say, in this connection, that the great weight of the evidence tends to show that he was in fact a prime mover in the commission of the robbery with homicide, for it had been conclusively proven that he had the great-est motive for its commission which must have been engendered by the resentment he harbored against the Chinaman who filed against him and his son, the two criminal complaints (for grave coercion and malicious mischief) then pending trial in the Justice of the Peace Court of Naguilian at the time of the robbery.

Conspiracy among the accused in this case, including herein appellants, has been proven conclusively by the evidence of record. The guilt of Ruben Concepcion, Conrado de Leon and Manuel Mamuri appears indubitable; and the fact that they effected the hold-up and killing of Chinaman Chua Nai Su in pursuance of that conspiracy, has been shown and demonstrated by the evidence beyond per adventure of doubt. It is, therefore, of no moment that herein appellants did not participate in the actual commission of the robbery, for once conspiracy is shown, the act of one is the act of all.

Having arrived at the foregoing conclusions, We do not find it necessary to discuss the individual merits of the alibis proffered by herein appellants. Bearing in mind the inherent weakness of alibi as a defense,[3] and considering, too, the existence of the extra-judicial confessions of the other accused, which on their faces and as corroborated by other evidence bespeak the true sequence of events, as a circumstance in passing upon the credibility of the witnesses for the prosecution, We find no cogent reason to disturb the finding of the lower court that herein appellants are guilty of the crime of which they now stand convicted.

It has been shown that appellant Protasio Santos is a public officer, but it does not appear that he had taken advantage of his official functions in the commission of the robbery. The evidence else shows that there was an offer of a reward by appellant Pascual Bartolome, and a promise by appellant Santos, but the evidence is not conclusive that herein appellant Ben Paredes had participated in the commission of the robbery by reason of such reward or promise, it appearing that even before the other accused met with Pascual Bartolome and the other municipal officials of the town who made the promise, the other accused were already decided in the commission of the robbery. No doubt, the reward and the promise aforementioned must have given the other accused, including appellant Ben Paredes, further inducement in the commission of the robbery, however, in our opinion, for this aggravating circumstance to be considered against the person induced, the said inducement must be the primary consideration in the commission of a crime or felony.[4] Consequently, no aggravating circumstance may be considered against any of herein appellants, and finding the conclusion of the trial court in accordance with the law and the evidence, the same must be sustained.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against appellants.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Riuz Castro, and Fernando, JJ., concur.

[1] U. S. vs. Remigio, et al., 37 Phil. 599; People vs. Marcos, et al., 70 Phil. 469.

[2] People vs. Aranua, et al. 98 Phil. 912.

[3] See People vs. Estrada, G.R. No. L-26103, January 17, 1968, and cases therein cited.

[4] See Art. 14, par. 11, Revised Penal Code.

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