

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PRUDENCIO OPINIANO, ET AL., DEFENDANTS-APPELLANTS.***G.R. Nos. L-18546 & L-18547. January 29, 1968*

Ponente: ANGELES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2abab56d9a7e/>**ANGELES, J.:**

From a decision of the Court of First Instance of Leyte, rendered after a joint trial in Criminal Cases Nos. 919 and 920 of said court, finding Prudencio Opiniano, Patricio Fernandez, Florencio Bautista, Leonardo Cabalican, Fausto Panoy, Marcelo Panay, Luis Cabalican, Bartolome Caiwan, Adolfo (Rodolfo) Melendres and Drillo Panoy guilty of the complex crimes of murder with assault upon an agent of a person in authority, with Pfc. Luis Meroy as victim, and of frustrated murder with assault upon an agent of a person in authority, with Pfc. Remy Parambita as the offended party, and sentencing the accused for the first offense, each to suffer the penalty of reclusion perpetua to indemnify, jointly and severally, the heirs of the victim in the sum of P6,000.00, and to pay the costs, and, for the second offense, each to suffer an indeterminate penalty of from twelve (12) years of prision mayor, as minimum, to seventeen (17) years and four(4) months of reclusion temporal, as maximum, to indemnify jointly and severally, the offended party in the sum of P5,000.00, and to pay the costs, all of the afore-named accused have appealed to this Court.

During the pendency of the appeal, Luis Cabalican, Faustino Panoy, Patricio Fernandez, Marcelo Panoy and Adolfo (Rodolfo) Melendres, in separate petitions signed by them, manifested and prayed that their appeals be considered withdrawn. This Court granted the petitions and dismissed their appeals, fully persuaded from a careful consideration of the evidence on record that their participation in the commission of the crimes charged has been established beyond reason-able doubt. In consequence, this opinion will deal only with the appeal of the remaining five appellants, namely, Prudencio Opiniano, Florencio Bautista, Leonardo Cabalican, Drillo Panoy and Bartolome Caiwan.

Prudencio Opiniano was the supreme leader of a religious organization known as the FILIPINASNON KABUS MAGU-UMA. Next in command and general mission-ary was Florencio Bautista. The ten accused and the other persons hereinafter named were members thereof.

For about two weeks Immediately prior to March 25, 1960, Opiniano, Bautista, Melendres (Adolfo), Melendres (Vidal), Tabudlong, Labas and Gacatura stayed in the house of Cosme Mabung at Matag-ub, Leyte. On the morning of said date, during a meeting of the members of the aforementioned organization convoked by Opiniano in the house of Cosme Mabung, which was attended by all the accused, and by Melendres (Vidal), Tabudlong, Lasbas, Gacatura, Mabung (Cosme), Mabung (Paulino), Mablang (Santiago), Aleniabo Ava-rial and Arizo; those in attendance were exhorted by Opiniano and Bautista to challenge the PC soldiers when they meet the latter, telling them that the sol-diers were hired by the priest to kill Opiniano for P70,000.00. Most of those present were armed with bolos and canes. Opiniano told his followers that the signal to attack the soldiers is the raising of his cane to his right shoulder. Following the ad-journment of the meeting after Lunch, Opiniano and his followers left for barrio Sombalawan where they had been invited.

In the meantime, Pfc. Remy Parambita and Pfc. Luis Meroy, having been informed that Opiniano and his followers were in barrio Santo Rosario in the town of Matag-ub, went to that place in obedience to the order of the provincial commander of Leyte to apprehend Opiniano, Bautista and Maria Lagbas, who were accused of estafa in a criminal case. The soldiers enlisted the aid of two civilians, Pedro Carlobos and Elpidio Paña, to serve the warrant of arrest. Remy Parambita was in civilian clothes, while Luis Meroy had his PC uniform on. Upon meeting Opiniano and his group, Parambita and Meroy identified themselves as PC soldiers. When Parambita showed Opiniano a copy of the warrant and informed him that he was under arrest, the latter refused to be arrested and challenged the soldiers to file charges against him. Because of the obstinate refusal of Opiniano to be placed under arrest, and finding that they were greatly outnumbered by the followers of Opiniano, who were armed with bolos, daggers and canes, Parambita and Meroy decided not to press the arrest, and prepared to leave. At this juncture, Opiniano placed his cane on his right shoulder, and immediately his followers surrounded the soldiers. Parambita and Meroy were hacked with bolos and hit with canes by Marcelo Panoy, Patricia Fernandez, Prudencio Opiniano, Florencio Bautista, Bartolome Caiwan, Fausto Panoy, Drillo Panoy, Luis Cabalican, Leonardo Cabalican and Rodolfo Melendres.

Pedro Carlobos shouted at the assailants to stop, and they dispersed. This gave Meroy a chance to crawl to a nearby ricefield where he died. Parambita crawled to a nearby bamboo grove. Carlobos looked for Parambita and, finding him at the bamboo grove still alive, took him to Camp Downes, Ormoc City. As Meroy was already dead, Carlobos left him on the ricefield. Later, the body of Meroy was taken to the municipal building by police sergeant Caber and the barrio lieutenant of Sto. Rosario.

Upon being informed of the incident, PC provincial commander Cirilo H. Ortilloza immediately went to barrio Santo Rosario. Finding Meroy dead and Parambita seriously wounded, he organized a task force to apprehend the assailants. Arrested were the ten accused. Each of them executed a written confession narrating his participation in the commission of the crimes.

The injuries sustained by Luis Meroy were:

- "1. Stab wound, back, thoracic, penetrating cutting the ribs 2" x 1/2" about one inch posterior to mid-axillary line;
- "2 Stab wound, penetrating back, lumbar region, 1 inch from vertebral column, right;
- "3. Incised wound, occipital region 2" x 1/4" with bone involvement;
- "4. Incised wound, crown 2" x 1/4" with fracture;
- "5. Punctured wound, right buttock (wound of entrance) measuring 2" and about 2 inches from coccyx, right side directed anteriorly and slightly downwards, wound of exit at scrotum, right;
- "6. Stab wound, superficial chest region, left measuring 3/4" directed medially. Cause of death due to shock, secondary to severe hemorrhage resulting from the wounds described above." (Exhibit A-1, p. 2, folder of exhibits.)

Remy Parambita suffered the following injuries which, barring complications, would require a healing period of from 60 to 120 days:

- "1. Wound, stab, superorbital, cutting frontal bone, right;
- "2. Wound, stab, shoulder right;
- "3. Wound, stab, forearm, right with fracture;

"4. Wound, incise, temporal;

"5. Wound, incised, elbow region, superficial right." (Exhibit A, p. 1, folder of exhibits.)

The foregoing incidents are shown by the evidence of the State.

On the other hand, the appellants tried to show by their testimonies that Opiniano and his followers were on their way to Sombalawan when they were met by Luis Meroy, Remy Parambita, Pedro Carlobos and Elpidio Paña. Parambita asked if the group of Opiniano belonged to the organization Filipinasnon Kabus Magu-uma, and he received an affirmative answer. He asked for their identification cards and they were exhibited to him. He inquired who in the group were Opiniano, Lagbas and Bautista and, the persons concerned having introduced themselves, Parambita told them: "You are under arrest." The three asked with what case they were charged, and Parambita informed them that they were accused of es-tafa in Jiabong, Samar. Opiniano refused to go with the soldiers, in spite of an invitation to that effect, because Parambita could not show the original of the warrant of Arrest. Upon Opiniano's refusal, Parambita remarked that they should be prepared. Forthwith, the soldiers fired successive shots at the group of Opiniano which was but four meters away. Tranquilino Tabudlong was hit. In the commotion that ensued, some scampered away and hid behind coconut trees and banana plants, and others lied down on the ground. After the firing, Eustaquio Avarial, Santiago Mabuang and Luis Cabalican grappled with the soldiers. Parambita was hacked by Ireneo Aliñabo on the forehead. Avarial hit the hand of Meroy, and after the revolver which the latter was holding had fallen to the ground, Fernandez took, the gun and ran away. Meroy was also stabbed by Aliñabo and Mabuang.

After the incident, Opiniano and his followers proceeded to Kangkalaw and staved in the house of Pa-tricio Fernandez. The next morning, on their way to Villaba, they saw PC soldiers manhandling the people, so they went to Mataroto. The accused were apprehended at Montealegre and brought to Kananga, Leyte. They claim that their extrajudicial confessions were executed by them because of maltreatment which they suffered in the hands of PC officers and soldiers.

Appellants have assigned three errors, allegedly committed by the trial court:

1. "in finding that the accused held a meeting on March 25, 1960, to plan the murder of Luis Meroy and Remy Parambita;
2. "in admitting as evidence, the extrajudicial confession of the accused;
3. "in finding that even without the extrajudicial confession of the accused, the evidence presented supported its findings that the accused were responsible for the death of Meroy and the wounding of Parambita."

Upon a careful review of the record, We have become fully persuaded that the lower court did not commit the errors imputed to it.

The evidence discloses that the Filipinasnon Kabus Magu-uma is a religious organization. It was, founded in the year 1954, by Florencio Bautista. Upon joining the organization, Prudencio Opiniano became its supreme leader. The utter lack of education on the part of the members of the organization is described by Opiniano in these words: "these poor people approached me x x x and I found out that they have no education, and they do not know how to read and write x x x that is why for the sake of helping these people who wanted to find progress and knowledge x x x they needed me." During the sojourn of Opiniano in the house of Cosme Mabuang, his followers visited him "to pay their respects" and "pledge their loyalty", and to thank him also for all the good things he had done for them. The moral and spiritual influence of Opiniano on his followers was so strong that, in the words of defense witness Bier-venido Garcia, his teachings were accepted as the words of God.

The organization was able to secure from the Assistant Insurance Commissioner a certification that it has complied with the legal requirements of benevolent societies or associations, and it was granted a license to transact: business concerning mutual benefits and relief. With this license, its members had embarked in an indiscriminate and unbridled solicitation of contributions to further its cause, culminating in the filing of a criminal complaint for estafa against Opiniano, Lagbas and Bautista with the municipal court of Jiabong, Samar. The warrant of arrest, which was certified by the Judge of the Court of First Instance of Samar, for service by any authority outside the province, was brought to the 59th PC Company at Camp Downes, Ormoc City. It was entrusted to Pfc. Luis Meroy and Pfc. Remy Parambita for enforcement.

The estafa case was not unknown to Opiniano, for even before March, 1960, he already knew of its pendency in court. In his extrajudicial confession, Exhibit L, he declared thus:

"x x x before March 25, 1960, I already knew I was accused of estafa before the justice of the peace court of Jiabong, Samar; the reason I went to Matag-ub, Leyte, was to avoid arrest."

Opiniano also knew that there was a price on his head. Thus, he declared at the trial:

"A.- x x x There was even a person in the name of Estanislao Lim who offered P72,000.00 reward for my death and also of Mariano Gabumpa." (p. 248, t.s. n., Nov. 14, 1960.)

"Q.- You said that it was still in 1959 that you heard of a plan to kill you and your members, is that right?

"A.- Yes, sir, especially the members of our organization.

x x x

COURT:

"Q.- Will you please tell the Court who is that Lim was willing to give P72,000.00 to kill you?

"A.- Estanislao Lim Rosales.

"Q.- What is his position?

"A.- He is one of the right man in Cervantes, Catarman.

"Q.- Who is Mariano Gabumpa?

"A.- He is the priest of the Iglesia Filipina." (pp. 273-274, t.s.n.)

The sojourn in the house of Cosme Mabuang of Opiniano and some of the members of the organization has been duly established. Rosa Mabuang, wife of Cosme Mabuang, declared that for about two weeks immediately prior to March 25 1960, Prudencio Opiniano, Florencio Bautista, Adolfo Melendres, Vidal Melendres, Tranquilino Tabudlong, Maria Lagbas and Rosario, Gacatura stayed in their house at Matag-ub, Leyte. Accused Rodolfo Melendres corroborated Rosa Mabuang as follows:

"Q.- On March 25, 1960, please recall to the best of your memory where were you?

"A. - I was in the house of Cosme Mabuang.

"Q.- Rosa Mabuang was there?

"A.- Yes, sir.

x x x

"Q.- You stated that you and six others including Opiniano and Florencio Bautista stayed in the house of

Cosme Mabuang, not less than a week, is that correct?

"A.- Yes, sir." (t.s.n. p. 202, Feb. 12, 1961)

Appellant Florencio Bautista confirmed the testimonies of Rosa Mabuang and Rodolfo Melendres thus:

"Q.- In the morning of March 25, 1960, where were you?

"A.- I was in the house of Cosme Mabuang.

"Q.- Who were with you in the house of Cosme Mabuang?

"A.- Prudencio Opiniano, Rodolfo Melendres, Fidel Melendres, Rosario Gacatura, Maria Lagbas, Cosme Mabuang, Rosa Mabuang and myself.

"Q.-How long have you been living in the house of Rosa Mabuang?

"A.- Not long ago. About six days before March 25, 1960." (p. 240, Ibid.)

The confession of Florencio Bautista is of similar tenor as His testimony in court. Thus:

"on the morning of March 25, 1960, I was in the house of Cosme Mabuang; my companions were Prudencio Opiniano, Rodolfo Melendres, Fidel Melendres, Rosario Gacatura, Maria Lagbas, Cosme Mabuang and Rosa Mabuang; I have lived for about six days before March 25, 1960 in the house of Mabuang."

The meeting in the house of Cosme Mabuang on the morning of March 25, 1960, and the exhortation by Opiniano and Bautista to challenge the PC soldiers and to attack them when the former's cane is placed on his right shoulder, as the trial court said, "Prudencio Opiniano himself admitted that he used canes, similar to the use of cane by Moses." (Decision, p. 13) are clearly shown by the evidence. Rosa Mabuang testified that on the morning of March 25, 1960, Opiniano convoked a meeting of the members of the organization in her house. Those who came to attend the meeting were Florencio Bautista, Adolfo Melendres, Vidal Melendres, Tranquilino Tabudlong, Maria Lagbas, Bartolome Caiwan, Rosario Gacatura Cosme Mabuang, Paulino Mabuang, Santiago Mabuang, Ernesto Aleniabo, Patricio Fernandez, Luis Cabalicán, Leonardo Cabalican, Eustaquio Avarial, Aquilino Arizo, Marcelo Panoy and Drillo Panoy. During the meeting, Prudencio Opiniano and Florencio Bautista told those present that "when they meet PC soldiers they would challenge these PC soldiers," because "the PC soldiers were hired by the priest for P70,000.00 to kill him (Opiniano)." On cross-examination, Rosa Mabuang declared:

"Q.- Prudencio Opiniano told you and the members who were pre-sent that the only sign to attack the PC soldiers is by raising the cane on the right shoulder, is that right?

"A.- Yes, sir.

"Q.- He told the members that he will not speak nor talk but he will only give the sign to show the challenge to the PC soldiers, is that right?

"A.- Yes, sir." (t.s.n. p. 31)

Santiago Mabuang, an accused who was discharged to be a witness for the prosecution, declared that on March 25, 1960, he was in the house of Cosme Mabuang, his younger brother, at Matag-ub, Leyte, because a meeting of the members of the organization was to be held thereat. Present at the meeting were Prudencio Opiniano, Vidal Melendres, Faustino Panoy, Bartolome Caiwan, Maria Lagbas, Rosario Gacatura, Tranquilino Tabudlong, Marcelo Panoy, Virgilio Panoy, Luis Cabalican, Leonardo Cabalican, Eustaquio Avarial, Ireneo Aleniabo, Cosme Mabuang, Rosa Mabuang, Paulino Mabuang and himself. Opiniano told them: "there are constabulary soldiers looking for him;" x x x "these constabulary soldiers were hired by the Priest for P70,000.00;" x x x "if they are

agents of the law, we will challenge them;" x x x "We are invulnerable to bullets;" x x x "when the cane would be placed on his (Opiniano's) shoulder, that is the sign that all the members would attack the PC soldiers." x x x "When Opiniano told us to fight the soldiers, we agreed."

Abundantly clear in the record also are the facts that the victims were challenged even though they identified themselves as PC soldiers, and they were assaulted when Opiniano raised his cane to his shoulder. Thus, Pfc. Remy Parambita testified that upon meeting Opiniano and his followers on the afternoon of March 25, 1960, they (Parambita and Meroy) identified themselves as PC soldiers. He (Parambita) showed to Opiniano a copy of the warrant of arrest and informed the latter that he was under arrest. Opiniano refused to be arrested and challenged the soldiers to file charges against him. Because of the obstinate refusal of Opiniano to be placed under arrest, and finding that they were greatly outnumbered by Opiniano's followers, who were armed with bolos, daggers and canes, he and Meroy decided not to press the arrest of Opiniano and they prepared to leave. At this juncture, Opiniano placed his cane on his right shoulder, and his followers immediately surrounded them. He and Meroy were hacked with bolos and canes by Marcelo Panoy, Patricio Fernandez, Opiniano, Florencio Bautista, Bartolome Caiwan, Fausto Panay, Drillo Panpy, Luis Cabalican, Leonardo Cabalican, and Rodolfo Melendres.

Appellant Bartolome Caiwan corroborated Parambita's testimony that the victims identified themselves. Thus, he declared:

"Q.- As a matter of fact, you heard the white complexion man who was talking to Opiniano that he was a soldier who was going to arrest him?

"A.- Yes, sir, because they were talking aloud.

"Q.- And that other soldier, you heard him also distinctly telling Opiniano he was a soldier who was arresting Opiniano because of a es-tafa case he had in Jiabong, Samar?

"A.- Yes, sir." (t.s.n. pp. 108-109, Nov. 16, 1960.)

Appellant Florencio Bautista corroborated Caiwan that Parambita gave the identities of the victims. He declared:

"COURT:

"Q.- By the way, do you mean to say that Parambita told you that they were PC soldiers when you made mention about the fact that Parambita said: 'We are government authorities?'

"A.- Yes, your Honor, but we did not believe it because they could not produce a warrant of arrest." (t.s.n. p. 236, Jan. 30, 1961)

The testimony of Pedro Carlobos is of similar tenor as the testimony of Remy Parambita. He declared that the PC soldiers told Opiniano and his followers to stop and asked for their ID's. Addressing Opiniano, Meroy said: "you, Florencio Bautista and Maria Lagbas are under arrest." Opiniano answered: "I will not go with you." The PC soldiers replied: "Why will you not go with us? We are ordered by the authorities to arrest you." At that precise moment, Opiniano "placed his cane on his right shoulder" and shouted, "You move now, these are our enemies." The followers of Opiniano suddenly encircled the PC soldiers and attacked them, using bolos and canes. Parambita and Meroy were attacked by Marcelo Panoy, Patricio Fernandez, Prudencio Opiniano, Bartolome Caiwan, Fausto Panoy, Luis Panoy, Drillo Panoy, Luis Cabalican, Adolfo Melendres and Leonardo Cabalican. The sidearm of Meroy was taken by Patricio Fernandez.

Elpidio Paña, one of the civilians who accompanied the PC soldiers, corroborated the testimony of Carlobos. (pp. 41-53, t.s.n. Nov. 16, 1960)

Rosa Mabuag declared that her husband, Cosme Mabuag, died on March 29, 1960, having been shot by PC

soldiers, because, he together with Takyo (Eustaquio) Avarial and several other members of the organization, challenged the PC soldiers. During the encounter, Avarial also died. (t.s.n. p. 31)

The foregoing salient facts are demonstrated not only by the testimonies of the prosecution witnesses which have been corroborated by the appellants themselves, but also by the extrajudicial confessions of the appellants which stripped of details, excerpted salient particulars of the confessions of the appellants are as follows:

1. PRUDENCIO OPINIANO - Exhibit L.

He declared that he was the founder and Supreme servant of the organization - "Filipinasnon Kabus Magu-uma"; 43 years old; before March 25, 1960, he already knew that he was accused of estafa before the justice of the peace court of Jiabong, Samar; the reason he went to Matag-ub, Leyte, was to avoid arrest; on March 25, 1960, his followers and himself were on their way to Sambolawan, and at Sto. Rosario, they met PC soldiers; he knew they were PC soldiers; they identified themselves as PC soldiers; his companions were Tabudlong, Caubata, Bautista, Bacatura, Lagbas, Caiwan, Fernandez, Avarial, Rodolfo and Vidal Melendres, Leonardo and Luis Cabalican, Aleniabo Marcelo and Fausto Panoy; they were members of the organization; the soldiers said that Lagbas, Bautista and himself were under arrest; his followers were around him; the soldiers were not able to make arrest because they refused to be arrested; he saw Drillo Panoy and Fausto Panoy stab one of the soldiers; Fernandez took the sidearm of the soldier; they were armed with canes and bolos; in that encounter, one soldier died, and another was wounded; after the incident, they proceeded to Sambolawan; he did not give the order to attack the soldiers; he does not know who gave the order to attack the soldiers; he hit Meroy once with his cane; Meroy was assaulted by Drillo, Fausto and Marcelo Panoy, Vidal Melendres, Fernandez, Lagbas and Gacatura; the other soldier was assaulted by Bautista, Adolfo Melendres and the other members.

2. DRILLO PANOY - Exhibit B-2.

He declared that he is 39 years old; he joined the organization - Filipinasnon Kabus Magu-uma in December 1957; Opiniano was the Supremo, and Bautista, the general missionary; he was in the group that assaulted two PC soldiers on the afternoon of March 25, 1960; the soldiers identified themselves as PC soldiers; they asked for their ID's; the soldiers were trying to arrest Opiniano and Bautista, but the latter refused to be arrested, and when the soldiers insisted to make the arrest, Bautista ordered him to stab the PC; Bautista ordered them to fight the PC; he saw, Opiniano hit one soldier with his cane; Bautista stabbed him with a hunting knife; Marcelo Panoy hit him with his cane; Lagbas and Gacatura hit the soldier with their canes; he stabbed the soldiers with his bolo, but he cannot remember how many times he stabbed the soldiers; one of the soldiers who was small was hacked by Alineabo and Fausto Panoy with their bolos; those who assaulted the soldiers were Opiniano, Bautista, Vidal Melendres, Fernandez, Marcelo Panoy, Alineabo, Fausto Panoy, Caubat, Luis Cabalioan, Avarial, Caiwan, Tabudlong, Mabuang, Lagbas, Gacatura, Leonardo Cabalican and himself; Fernandez was able to disarm one soldier, and Rodolfo Melendres the other soldier; they left the wounded soldiers and proceeded to Sambolawan, Leyte; he did not report the incident to anybody because he was afraid of Bautista.

3. LEONARDO CABALICAN - Exhibit B-7.

He declared that he is 41 years old; a member of Filipinasnon Kabus Magu-uma since 1959; on the afternoon of March 25, 1960, he was with the group of Opiniano; he knew that Opiniano was accused in Samar; approaching Sto. Rosario, they were overtaken by PC soldiers; the soldiers were talking to Opiniano and reading something; Opiniano refused to be arrested; suddenly Marcelo Panoy hit one of the soldiers on the head and on the body; Drillo Panoy stabbed the soldier, first at the back, next at the side and stomach; he hit one of the soldiers with his cane, the others also participated; Alineabo and Adolfo Melendres were grappling with the soldier, who was already wounded; they were able to get the sidearm of the soldier; after the incident they proceeded to

Sambolawan; he did not report the incident to anybody because he was afraid; he knew they were being pursued by the PC, so they went to sitio Matoroto, and at this place, Opiniano told them to disperse.

4. BARTOLOME CAIWAN - Exhibit B-10.

He declared that he is 39 years old; a member of the organization - Filipinasnon Kabus Magu-uma; at about 2:00 o'clock in the afternoon of March 25, 1960, he was with the group of Opiniano; they were going to Sambolawan; they were overtaken by two PC soldiers and two civilians; they were ordered to stop; the soldiers asked who were Opiniano and Bautista; the soldiers said that Opiniano and Bautista were under arrest; Opi-niano asked for the warrant of arrest, and the Soldiers answered they should go with them because the warrant was in the town; there was a discussion when he saw Marcelo Panoy hit Pfc. Meroy, followed by. Fernandez and Bautista; Meroy fell to the ground; he was stabbed by Drillo, Fausto and Marcelo Panoy; the other soldier was struck with their canes by Vidal Melendres, Opi-niano, Lagbas and Rodolfo Melendres, and Avarial, Luis and Leonardo Cabalican, Aleniabo and Tabudlong hacked him with their bolos; he was just: looking and took no part; he saw the soldiers carrying sidearms; the soldiers used their firearms; they fired three shots; he saw the two soldiers beaten up and stabbed; the pistol of Meroy was taken by Fernandez, and the revolver of Parambita was taken by Adolfo Melendres; after the incident, they all ran to Sambolawan; those who participated in the attack were all members of the organization; the soldiers introduced themselves as PC; Opiniano gave the order to stab the soldiers.

5. FLORENCIO BAUTISTA - Exhibit B-11.

He declared that he is 34 years old; a mission-ary of the organization since 1956; their leader and founder was Opiniano; he joined the organization when he first came to know Opiniano at his residence in Ormoc City when he happened to buy sweepstake tickets from him; there were many others who joined the organization (mentioning their names); the organization has a constitution and by-laws; thirteen persons signed the constitution (mentioning their names); the organization has many branches (listing the places, dates of organization, the heads of the branches, and number of members); he visited the various branches of the organization (giving the number of times he visited the branches); he came to know that Opiniano and Lagbas were accused of estafa; he did not know he was one of the accused; those who attacked the sol-diers were 18 in all, including himself; he knew that the persons they assaulted were PC soldiers, because the soldiers identified themselves; the soldiers talked to Opiniano and told him he was under arrest on a charge of estafa; when the soldiers overtook them at Sto. Rosario, they were 18 persons (giving their names); he hit one soldier with his cane, he hit the soldier only once, and that soldier was boloed by Aleniabo and Rodolfo Melendres; after the incident, one soldier, was killed, and the other wounded; Marcelo Panoy and Vidal Melendres were among those who attacked the soldiers.

It is contended that the trial court fell into error in admitting the extrajudicial confessions of the accused as evidence. In support of their contention, appellants rely on their testimonies as follows:

1. Prudencio Opiniano testified that he was the first to be investigated; a soldier slapped his face with a piece of paper; he was in civilian clothes, and he is called Tayko.

"A.- They wanted us to say that we were the ones who wounded the PC Luis Meroy and Remy Parambita, and because I did not accede to what they wanted, I was taken by another soldier and placed in another room in the Headquarters. My head was knocked and my ribs were boxed. I did not know the persons who maltreated me but I recognized him when I saw him in the picture to be Vicente Luna.

"Q.-Before Colonel Luna maltreated you, you never had any conversation with him is that right?

"A.- I did not have any conversation with Colonel Luna before I was maltreated by him.

x x x

"Q.-You only know that it was Colo-nel Luna who maltreated you when you saw that picture marked Exhibit 14-a, is that right?

"A.- Yes, sir.

"Q.- When Colonel Vicente Luna was maltreating you, this Major Hertillosa, Major Omaña, Major Corsiga and Capt. Dimaala were Also present, is that right?

"A.- I cannot remember whether they were present, but there were many PC soldiers around.

"Q.- More or less, how many PC soldiers were present?

"A. - I cannot tell you the exact number, they were many.

x x x

"Q.- About twenty?

"A.- I am not sure.

"Q.- About ten?

"A. - I do not know."

He declared that his companions and himself were ar-rested by the PC soldiers in the early morning of April 1, 1960; they were taken to Kananga, Leyte where they were met by Capt. Tayko, Capt. Dimaala, Major Corsiga, Major Hortillosa and Major Omaña; Capt. Tayko did not maltreat him, but he promised to destroy the properties he had wish him, because according to him, that was the cause of the trouble.

"Q.- So, do you want to convey to the court that Capt. Tayko never maltreated you at any time while you were in Kananga, Leyte?

"A.- No, sir, he did not.

"Q.- How many soldiers maltreated you while you were snatched?

"A.- The one who snatched me was that soldier in the picture with Major Corsiga, but I do not remember who that soldier was.

"Q.- How many soldiers maltreated you at the time you were snatched in Montealegre?

"A.- I did not recognize the persons who maltreated me. I was unconscious at that time.

"Q.- So, at the time you were snatched by the PC soldiers, you were unconscious, is that right?

"A.- Yes, sir.

"Q.- There were about four soldiers who maltreated you, is that right?

"A.- They were many. If I am not mistaken there were three jeeps loaded with soldiers.

"Q.- And all the soldiers took turn in maltreating you?

"A.- One soldier slapped my face and another soldier kicked me.

"Q.- And you were also boxed at your face?

"A.- I was slapped.

"Q.- When they kicked you, it was also very strong?

"A.- I felt pain.

"Q.- You felt pain so much so that you became unconscious because you were already weak at the time, is that right?

"A.- Yes, sir.

x x x

"Q.- But according to you, you were sick and weak when you arrived in the Task Force Office at Kananga, Leyte, is that right?

"A.- Yes, sir, when I arrived there Major Corsiga held my hair and pushed me to the ground.

"Q.- Major Corsiga merely held your hair, is that right?

"A.- Yes, sir.

"COURT: Q.- When you were pushed to the ground, what happened to you?

"A.- Nothing happened to me." (t.s.n. p. 283, Nov. 14, 1960)

"Q.- You also stated that Major Corsiga maltreated you, you were also maltreated by Major Hortillosa, is that right?

"A.- I was only asked questions.

"Q.- So, you want to impress the court that Major Hortillosa never maltreated you while you were in Kananga, Leyte, is that right?

"A.- He did not maltreat me.

"Q.- As a matter of fact, while you were in Kananga, Major Hortillosa was very friendly with you, is that right?

"A.- As far as I remember, he did not do anything to me.

"Q.- Is it also true that Capt. Dimaala did not maltreat you while you were in Kananga, Leyte, is that right?

"A.- I do not remember."

2. Florencio Bautista testified that at Montealegre they were captured by PC soldiers and taken to Kananga where they were met by Capt. Dimaala and Major Hortillosa. Opiniano told Hortillosa and Dimaala about the incident, but the PC officers would not believe him. They said that Opiniano and Bautista were the ones who killed and wounded the PC soldiers. Opiniano and Bautista answered that they were not the ones but Ernesto Aleniabo and Santiago Mabuang who killed and wounded the PC soldiers.

"Q.-How were you treated during the evening?

"A.- We (Opiniano and Bautista) were manhandled by Capt. Dimaala and Major Hortillosa; Opiniano was held by Major Corsiga by the hair, and he was also slapped by Capt. Dimaala; Capt. Dimaala, Major Hortillosa, Major Corsiga, Major Omaña and the rest of the soldiers brought us to bushes; thereat Hortillosa and Dimaala told us that if we do not point to Opiniano as the one responsible for the attack of the soldiers, we would be killed; the affidavit I signed was prepared by Hortillosa; when our lawyer was yet Atty. Mendiola, we protested to him regarding the contents of our affidavit, but Atty. Mendiola said 'you can declare about your affidavit before the court', and then when we have another lawyer, Atty. Aban (of record) we had again protested to him as to the contents of our affidavits, and we even sent a letter to the Honorable Court on

September 10, 1960, regarding our protest in the said affidavit." (t.s.n. p.25)

3. Drillo Panoy testified that at Balkosan, Aleniabo, Marcelo Panoy and himself met PC soldiers. One of the soldiers asked them if they were members of the group which had an encounter with PC soldiers at Rosario, and they answered that they were from Sambolawan. The soldiers remarked: "they are Polahan" and arrested them. They were taken to Kananga, Leyte. He was hogtied and made to sit on a chair. A soldier threatened him with a hunting knife. That night, two PC soldiers maltreated him. He was boxed several times. They held his neck and struck him with a chair, and one of the legs of the chair was broken. Capt. Dimaala handed him a written statement and told him to sign it, otherwise, he would be killed. He signed the statement. Its contents were not translated to him. Asked by his lawyer if the deputy clerk of court, Dejana, translated his statement to him in the Cebu-Visayan dialect, Drillo Panoy answered: "I cannot remember." Asked further why he could not remember, he answered: "x x x because I was shocked at that time and I became insane when the affidavit was prepared."

"COURT: Q.- Why did you become insane?

"A.- Because I was brought to the provincial jail by a PC soldier and I was maltreated by prisoners in the jail. That is why I became groggy and insane."

On cross-examination, Drillo Panoy declared:

"Q.- How many persons maltreated you?

"A.- Of the 13 prisoners, only two were able to maltreat me. x x x.

"Q.- And you found out after you were maltreated that you had a headache because of the swollen portion at the back of your head?

"A.- Yes, sir.

x x x

"Q.- At the time you were maltreated by your 11 inmates, your co-accused, Prudencio Opiniano and others were watching you, is it?

"A.- Yes, sir.

"Q.- And they never lifted a finger to prevent the maltreatment, is that right?

"A.- No, sir.

"COURT: Q. You did not report that matter to the provincial war-den?

"A.- No sir, because I was afraid.

"Q.- Do you still remember the visit of the presiding judge of this Court to Ormoc sub-provincial jail?

"A.- Yes, sir.

"Q.- Do you remember if you have reported to him that matter after the Presiding Judge asked you and the inmates if they have any complaint?

"A.- I did not report the matter because I was afraid.

"FISCAL: Q.- You did not go to any government physician to be examined by them and in order to be treated, is that right?

"A.- No, sir, because of fear.

x x x

"Q.- And as a matter of fact, this is the first time you narrated this story before this court, is that right?

"A.- Yes, sir.

"Q.- So we are made to believe that the maltreatment that you had was not reported to anybody else, is that right?

"A.- I told the incident to my inmates in the Ormoc sub-provincial jail.

"COURT: Q. Did you tell your lawyer?

"A.- No, sir.

"Q.- You said that you were maltreated in Kananga, Leyte, did you tell to any government authority about this maltreatment?

"A.- No sir, because of fear.

"Q.- You did not also report the fact that you were maltreated at Camp Downes, Ormoc City, to any Government authority, is that right?

"A.- I did not.

"Q.- You stated that you admitted that you made statement that were a-against you and Prudencio Opiniano, what do you mean by that?

"A. - I mean to say that the words or contents in the exhibits marked exhibits D and D-1 which were in favor of Prudencio Opiniano and myself are my own declaration, but those that are not in my favor and of Opiniano were only fabricated.

"Q.- Will you please tell the Honorable Court which portion of the affidavit were made by Capt. Dimaala?

"A.- That portion which states that Prudencio Opiniano placed the cane on his right shoulder and that portion which states that I used a bolo and thrust it to Pfc. Luis Meroy. Those are not my statement."

4. Leonardo Cabalican testified that they were apprehended in Bo. San Vicente, Alangngilang, Leyte, and taken to Tacloban, Leyte, where they were investigated. They were hogtied. Many persons were present during the investigation. They were told that their companions in Bulak were killed. A picture of his companions and of himself taken, Exhibit 2. After the picture-taking, they were taken to the stockade, where a big soldier said that colorum." That soldier kicked him but Luis Cabalican was not maltreated, "because the big soldier was stopped by the small soldier. The next day, they were taken to Kananga where, they were investigated again. A big fellow in civilian clothes "hit me at my right ear" and said: "you follow that statement. If you will not follow, then we will maltreat you." He signed the state-ment out of fear.

"Q.- Did you understand the contents of Exhibits G-1 and G-2, during that investigation in Kananga, Leyte?

"A.- I was told to testify that Prudencio Opiniano maltreated the PC soldiers and that Florencio Bautista al also participated well as the two women in manhandling the PC soldiers. (The confession of Leonardo Cabalican, however, does not contain such statement and no question to the effect was ever asked.)

He declared that they were taken to the provincial jail. "And in jail, the warden investigated me and we were made to sign a statement."

5. Bartolome Caiwan declared that at about 2 o'clock in the afternoon of March 25, 1960, he was with Opiniano

and his companions bound for Barrio Sambolawan. After his arrest he was taken to Kananga with his hands tied at his back. At Kananga, he was threatened by the soldiers saying "if you are not going to sign your affidavit in this investigation, we will kill you." He was boxed by the soldiers for three nights. Capt. Dimaala told him that if he will not sign the affidavit, he will be brought back to the PC camp. On cross-examination, he testified thus:

"Q.- Did you report this matter, that you were maltreated to any government authority?

"A.- No, sir, but just now.

"Q.- You never told that to your lawyer?

"A.- No, sir."

Upon the other hand, Leonardo Dejana, deputy clerk of court, Court of First Instance of Leyte, declared that Fausto Panoy, Drillo Panoy, Luis Cabalican, Marcelo Panoy, Leonardo Cabalican and Adolfo Melendres were brought before him to swear to their statements. Before making them subscribe under oath to their respective statements, he translated the statement in Cebu-Visayan dialect. After asking each of them if he understood the contents of the statements, and if the same was his own free will, they admitted to him that the statements are true, and they signed the statements.

Olivo Dregor, clerk of court, Court of First Instance of Leyte, declared that Patricio Fernandez, Bartolome Caiwan, Florencio Bautista and Prudencio Opiniano were brought before him to swear to their statements. He translated to each of them their statements in Cebu-Visayan dialect, and they admitted to him that their statements are true.

We are inclined to believe that the extrajudicial confessions of the appellants were executed freely and voluntarily. They contained such details as only the declarants could have furnished. For instance, in the confession of Florencio Bautista, the particulars about the constitution and by-laws of the organization and of the various branches thereof, are mentioned. It is no easy to believe that the investigating officers fabricated said particulars. Moreover, as typified by the confession of Prudencio Opiniano, the extrajudicial statements of the appellants contained inculpatory as well as exculpatory facts. These are clear badges of spontaneity and voluntariness. (People v. Castro, L-17465, August 31, 1964.)

The testimonies of Opiniano and Bautista concerning the alleged maltreatment are hopelessly irreconcilable. Bautista testified that Capt. Dimaala and Major Hortillosa maltreated them. On the other hand, Opiniano declared that during the investigation, Major Hortillosa was very friendly with him and Capt. Dimaala did not maltreat him. Drillo Panoy, on his part, declared that the prisoners, in his cell were the ones who mal-treated him, and he did not report any maltreatment to the presiding judge when the latter paid him a visit at the Ormoc sub-provincial jail. Nor did he submit himself to any government physician for treatment. Leonardo Cabalican tried to convey that he was urged by the PC soldiers to impute the assault of Meroy and Parambita to Opiniano and Bautista. His confession, however, does not contain such a statement nor was a question to that effect ever asked of him. Bartolome Caiwan admitted that he did not report any maltreatment to any government authority or even to his lawyer, and that the first time he mentioned maltreatment was when he testified in court. Upon the posture of appellants' testimonies, there is strong reason to believe that the claim of alleged maltreatment is a pretext and a last-ditch attempt to exculpation of the crime charged.

Neither does the appellant's version of the incident inspire rational belief. Florencio Bautista tried to make the impression that they were fired upon by the victims when Opiniano refused to be arrested. Considering, however, the close proximity of the soldiers to Opiniano and his followers - a distance of four meters - it is strange that the group of Opiniano emerged unscathed from the encounter whereas the PC soldiers sustained mortal injuries.

It is claimed that Tranquilino Tabudlong was hit on the head by a bullet. This was, however, discredited by the trial court thus:

"The contention of the accused that Pfc Meroy and Pfc. Parambita fired eight (8) shots at the group of the accused at a distance of only four(4) meters, with 45 caliber pistol and revolver, without said soldiers hitting anyone of the accused, except on the head of Tranquilino Tabudlong causing a slight injury, before the three companions of the accused assaulted said soldiers, runs counter to the ordinary course of nature, unless we give credit to their improbable claim and fanatical belief that the said accused are invulnerable to bullets. No witness other than the accused has been pre-sented to show and testify to this fact; and no medical certificate has ever been presented to show that Tran-quilino Tabudlong was injured; and Tranquilino Tabudlong himself has never been presented. "

We fully agree, with the foregoing findings and conclusions of the trial court.

It is conspicuously noticeable from the evidence that while the appellants are in unison in their testi-mony that the soldiers fired successive shots towards the group of Opiniano at a distance of only four (4) meters, their accounts of the event are contradictory of each other which renders their version incredible. Thus, appellant Bartolome Caiwan did not mention in his testimony anything about the wounding of Tabudlong. He declared thus:

"Q.- When your group proceeded to Sombalawan, can you tell the court what happened?

"A.- When we went ahead with Opiniano, we heard shots behind us.

"Q.- What did you do when you heard the firing of shots?

"A.- We ran away and some were lying on the ground.

"Q.- When there were no more shots, what did you and your companions do?

"A.- We proceeded our way.

"Q.- Where did you go?

"A.- To barrio Sombalawan with Opiniano, Bautista Tabudlong, Rodolfo and Vidal Melendres, Gacatura Luis and Leonardo Cabalican, Drillo and Marcelo Panoy, and I do not remember the rest."

Luis Cabalican, accused-appellant, who was also in the group of Opiniano, declared thus:

"x x x then I saw they (soldiers) were conversing with Opiniano; after a while Opiniano left the group of Parambita, and when we were about to proceed on our way, I heard eight(8) shots; when I stood up, I saw three persons grappling with each other.

"Q.- Do you know the names of those persons grappling with each other?

"A.- Yes, sir.

"Q.- Please tell the Hon. Court their names.

"A.- Eustaquio Avarial, Santiago Mabuang and Ireneo Aleniabo."

The witness said nothing about Tabudlong having been hit on the head with a bullet. The soldiers did not have the opportunity to fire their guns. Drillo Panoy declared: "when I looked around, I saw Avarial, Mabuang and Luis Cabalican grappling with Luis Meroy; Avarial hit with a bolo the hand of Meroy and the revolver fell to the ground." It is to be noted that the witness pointed to Luis Cabalican as one of the three who was grappling with Luis Meroy, and yet, Cabalican disclaimed having struggled with Meroy, and tried to make the court believed that he did not do anything to assault the soldiers. Worse still, Opiniano made no mention whatsoever about the

wounding of Tabudlong.

Opiniano and Bautista had every motive to exhort their followers to attack the PC soldiers. They were accused of estafa in Samar. There was a price on the head of Opiniano. Knowing that the members of the organization accepted the Words of Opiniano as gospel truth, the two leaders induced their followers to believe that they are invulnerable to bullets, and that a shipload of arms and ammunitions were available to them. Painting before them the picture of persecuted men, Opiniano and Bautista prodded their followers by inflammatory remarks to defy the lawful authorities. They preyed on the utter lack of education and gullibility of the members of the organization. And they succeeded. Acting as one, the ten accused and some others, members of the organization, all assaulted Meroy and Parambita with bolos, daggers and canes, culminating in death to one and mortal injuries to the other. The evidence have clearly shown that they had acted with concert and in unison in obedience to a plan or prior understanding to commit a punishable wrong. The crimes charged have been committed, as disclosed by the evidence, beyond reasonable doubt.

WHEREFORE, the appealed judgment is affirmed with costs against the appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Fernando, JJ., concur. Castro, J., did not take part.

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