

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIANO DAGA ALIAS MANING, DEFENDANT-APPELLANT.***G.R. No. L-22371. October 26, 1967*

Ponente: CONCEPCION, C.J.

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Appeal from a decision of the Court of First Instance of Leyte, convicting appellant Mariano Daga of the crime of robbery with homicide, with which he is charged, and sentencing him to life imprisonment, to indemnify the heirs of Potenciano Barbasa in the sum of P6,000.00, in addition to the sum of P108.40, representing the value of the stolen goods, and to pay the costs.

It is not disputed that on March 5, 1960, at about 2:00 a.m., a thief entered the house of Potenciano Barbasa – in the barrio of Pawing, municipality of Palo, province of Leyte – and stole from the bedroom thereof two (2) watches and a ring all valued at P105.00, and money in cash amounting to P3.40, and then stabbed Potenciano – as the latter woke up and grappled with him inside said room – with a knife on the left side of the stomach, thereby inflicting upon him a wound, in consequence of which he died on March 6, 1960, at 3:00 a.m.

The only issue in this case is the identity of the culprit. In this connection, Epifania Barbasa, widow of the deceased, and their children, Milagros and William, both surnamed Barbasa, who were inside the bedroom at the time of the occurrence, positively identified appellant Mariano Daga as the thief and the killer of Potenciano Barbasa.

Upon the other hand, Daga denied having committed the crime charged and set up an alibi. He would have us believe that he was in the barrio of Binangoran, Municipality of Santa Fe, Leyte, from March 4, 1960, at 7:00 a.m. to March 5, 1960, at about 11:30 a.m. For this purpose he introduced his own testimony and the testimonies of Teodorico Pedrero and Vicente Caidic. The lower court, however, found the evidence for the defense unworthy of credence, and the record does not show that, in reaching this conclusion, His Honor, the trial Judge – who had the opportunity, denied to us, to observe the behavior of the witnesses during the trial – had overlooked or misunderstood any fact or circumstance of weight or importance in the determination of this case.

On the contrary, the aforementioned widow and children of Potenciano Barbasa testified, and the defense has not denied it, that appellant was well known to them before the occurrence, so that they could not have committed an honest mistake in pointing to him as the person who entered the lighted bedroom in which they slept, picked up two (2) watches from the top of an aluminum tank inside said room, and got, from one of the pockets of a trouser of Oscar Barbasa, hanging near said tank, a diary containing cash money, in the sum of P3.40. Besides, said witnesses for the prosecution had no possible reason to falsely incriminate appellant herein, and hence, there can be no doubt about their veracity.

Indeed, appellant could have committed the crime charged in Pawing, Palo, in the early morning of March 5, 1960, at about 2:00 a.m., as testified to by the prosecution witnesses, and then spent the evening of the same day in Binangoran, Santa Fe, with his witnesses Federico Pedrero and Vicente Caidic, inasmuch as the two (2)

municipalities adjoin each other. Again, the testimony of said witnesses for the prosecution was bolstered up by that of Vicente Dula, municipal policeman of Pawing, Palo, who saw appellant, in the evening of March 4, 1960, between 9:00 and 10:00 p.m., walking between the barrios of Guindapunan and Pawing, about 1 or 2 kilometers from the latter: Further corroboration is supplied by the fact that, after conducting an investigation of the occurrence, in the course of which appellant was named as the culprit, Dula looked for appellant and found him in the farmhouse of Felino Capaico, in Pawing, in the evening of March 6, 1960; that appellant they had the knife, Exh. B, in his pocket; and that, upon inquiry by Dula, appellant admitted that Exh. B was the instrument with which he had stabbed Potenciano Barbasa. There is absolutely no evidence that Dula had any particular reason to risk a prosecution for perjury in order to assure appellant's conviction.

WHEREFORE, the decision appealed from is here-by affirmed, with costs against appellant Mariano Daga.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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