

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GUILLERMO CAPADOCIA, ET AL., DEFENDANTS, JOSE M. NAVA,
ALFREDO PALMEJAR, MIGUEL ELEVADO AND NAPOLEON NAVA,
DEFENDANTS-APPE...**

G.R. No. L-5796. August 29, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In the decision of the Court of First Instance of Iloilo now subject of this appeal, the following defendants were pronounced guilty: Jose M. Nava, of rebellion with murder - sentenced to suffer the capital penalty; Miguel Elevado, of simple rebellion, with the mitigating circumstance of lack of instruction - sentenced to six(6) years and one(1) day of prision mayor; Napoleon Nava and Alfredo Palmejar, of simple rebellion -each sentenced to six(6) years, eight(8) months and one (1) day of prision mayor. The last three defendants appealed to the Court of Appeals, which certified the case to this Court[1] in view of the pendency here of the appeal taken by Jose M. Nava.

Jose M. Nava died before his appeal could be decided.[2] The appeals of Miguel Elevado[3] and Napoleon Nava[4] were subsequently withdrawn by them.

We are therefore concerned only with the appeal of Alfredo Palmejar, who was one of forty persons[5] accused in the lower court of the crime of rebellion with multiple murder, arson, kidnapping, robbery and physical injuries. Fifteen of the accused were not apprehended[6] and fifteen of the twenty-five who were arraigned pleaded guilty[7] and were sentenced accordingly.

Palmejar was one of the ten accused[8] who pleaded not guilty and went to trial, after which he was convicted of simple rebellion as aforestated, under Article 135, paragraph 2, of the Revised Penal Code.

The charge against this appellant is based on his alleged membership in the "Hukbong Mapagpalaya ng Bayan" (also known as HMB or Hukbalahap) and his having helped carry out its criminal purposes by supplying it with money and mimeographing its publications.

The record shows that the HMB first became active in Panay sometime in December 1947, but was not organized until the latter part of 1949, when Guillermo Capadocia came (from Luzon) to establish the so-called Panay Squadron. Jose M. Nava was then the national president (Supremo) and Alfredo Palmejar, his son-in-law, was the national treasurer, of the Federacion Obrera de Filipinas (FOF), a labor union with central offices in Iloilo City. The prosecution claims that the FOF was a "front" for the HMB.

Concerning appellant's membership in the HMB and participation in its activities, the evidence consists principally of the testimony of Pedro Torres Ternura, Rodrigo de Jesus and Placido Menaje, and of a letter purportedly sent by Capadocia to Federico Maclang,[9] in which Palmejar was mentioned as a Huk.

According to De Jesus, he knew Palmejar to be a Huk with the alias "Ibarra". However, in another case where De Jesus testified as prosecution witness against Flavio Nava, brother-in-law of appellant Palmejar, this Court did not give credit to his testimony for reasons which are equally valid here, and hence the statement made by him with respect to Palmejar may be similarly discounted.[10]

Menaje was another confessed Huk. He admitted that he was not even an acquaintance of Palmejar, knowing him only by face, but said that he knew the latter to be a Huk because of a letter signed "Ibarra" and received by another Huk known as "Diego Silang". "Diego Silang," according to Menaje, was Flavio Nava, who told him that the letter had come from his brother-in-law "Pidiong," referring to Alfredo Palmejar. Not only is the evidence hearsay, but in the same case where this Court ruled out the testimony of De Jesus, We found that Flavio Nava was not the "Diego Silang"[11] referred to as a member of the HMB. Consequently, Menaje's identification of appellant as a Huk on the basis of a statement attributed to Flavio Nava is of no evidentiary value.

We now consider the testimony of Pedro Torres Ternura, upon which the trial court relied mainly in finding appellant guilty. Its highlights are as follows: Ternura was a member of the branch of the FOF in Negros Occidental. On an unspecified day in November 1949 he went to the FOF office in Iloilo and there saw Palmejar mimeographing a Huk publication. Then in June 1950 he and two other FOF members, Salustiano Samson and Juan Casidsid, were called to Iloilo by Jose M. Nava. When they arrived at the FOF office Nava instructed them to go to Lambunao, where they were to study labor and tenancy laws in the Huk school there. Early the next morning Palmejar gave the three men a guide to help them get to the place, and P25.00 with which to buy supplies for the school. They then proceeded by truck to the poblacion of Lambunao, and from there, on foot to Capadocia's headquarters. Ternura, Samson and Casidsid introduced themselves to Capadocia as the men who had been sent by Nava, and for twenty days afterwards they attended the "People's Institute", where Capadocia and a certain Alunan taught them world history, Philippine history, with emphasis on revolutions and insurrections, principles of communism and Huk military tactics. Their indoctrination course finished, they were awarded diplomas. Ternura, with the alias "Tia Mayang", was made secretary to "Field Command 64" in the province of Negros. On their way back from Lambunao the three passed the FOF office in Iloilo, where they informed Palmejar that they had finished their studies and that Capadocia had given them their respective assignments.

The case against appellant is built on Ternura's testimony, and the issue hinges on how much credence can be accorded to him. The first consideration is that said testimony stands uncorroborated. Ternura was the only witness who testified on the mimeographing incident. With reference to the amount of P25.00 which, according to Ternura, appellant gave him in June 1950 to buy supplies for the Huk school in Lambunao, neither of Ternura's companions - Casidsid and Samson - furnished any corroboration. Even the man who acted as their guide when the three of them went to Lambunao could not be identified by Ternura in spite of the fact that they were together during their twenty-four hour trip.

The inherent weakness, from the objective viewpoint, of the evidence given by Ternura is compounded by the existence of subjective reasons for him to implicate appellant. He was a confessed Huk under detention at the time. He knew his fate depended upon how much he cooperated with the authorities, who were then engaged in a vigorous anti-dissident campaign. As in the case of Rodrigo de Jesus, whose testimony We discounted for the same reason, that of Ternura cannot be considered as proceeding from a totally unbiased source. More significant still, he had a personal grievance against appellant.

In 1949 Ternura was the secretary of the FOF branch in San Enrique, Negros Occidental. In July of that year appellant received complaints from union members in Negros that Ternura had been misappropriating union funds. He thereupon instructed Manuel Palacios, provincial chapter president, to investigate the complaint. In the report he submitted, Palacios confirmed the charges. On August 30, 1949 Ternura at first denied his guilt but

admitted it later on when Palmejar confronted him with the report of Palacios and the affidavits of the officers in the Negros branch office. Ternura's explanation was that he spent the money for medical treatment. Finding the explanation unsatisfactory, Palmejar immediately typed a letter of dismissal, had it signed by the FOF president, and then gave it to Ternura that very day, August 30, 1949.

From that time on, according to appellant, Ternura never again went to the FOF office in Iloilo, and did not go there in November 1949 nor in June 1950 - the two occasions particularly referred to in his testimony linking appellant with the Huk organization.

One circumstance injects a serious doubt into the allegation that in June 1950 appellant was helping Capadocia at all. At the national executive meeting of the FOF on January 4, 1950 appellant presented a motion as follows: "a resolution should be passed making clear the stand of the FOF on the actuations of one of its national officers Guillermo Capadocia, which run counter to the mandates of the government of the Republic of the Philippines and the Constitution and By-Laws of the FOF, particularly its aims and purpose; I further move that the said resolution should approve the expulsion of the said national officer, Guillermo Capadocia, from the FOF". Accordingly, Capadocia was expelled from the union and the resolution to that effect was published in the union's newspaper, "The Liberator", on January 4, 1950 and copies thereof were furnished the President of the Philippines and the Secretary of Labor. Copies were also sent to the different chapters of the union all over the country.

In the case of *People v. Capadocia* (hereinbefore cited), We found it satisfactorily proven that:

"On January 4, 1950, appellant Nava took part in a meeting of the Federacion Obrera de Filipinas - otherwise known as FOF - of which he was the National General Inspector, in the City of Iloilo. In that meeting he and other officers of the federation unanimously approved and signed a resolution expelling therefrom Huk leader Guillermo Capadocia, owing to a letter he had written to said federation expressing views which the latter believed to 'run counter to the mandates of the Republic of the Philippines'. It is inconceivable that Flavio Nava would have performed said acts if, as the prosecution claims, he was a Huk and had been inducted as such only three days before, considering that Capadocia headed the Huk movement in the province of Iloilo. Nava's conduct in connection with the expulsion of Capadocia on January 4, 1950, likewise, indicates that said appellant could not have performed on December 10 and 27, 1949, the acts imputed to him by the witnesses for the prosecution."

There remains only the issue of the genuineness and admissibility of Exhibit QQ-4, which is a carbon copy of a letter dated February 1, 1950, written in Tagalog by a certain "HB" and addressed to "Eto". In that letter "HB" appears to be asking "Eto" for money, with the instruction that the same be sent to "Alfredo Palmejar of Iloilo City". The prosecution points out that "HB" was Guillermo Capadocia, who sported the aliases Huan Bantiling and HB, while "Eto" was Federico Maclang, from whose residence in Manila the authorities seized several letters on October 8, 1950, among them Exhibit QQ-4. The genuineness of Capadocia's signature on that letter was testified to by Rodrigo de Jesus, who said he was familiar with Capadocia's handwriting; but as already noted, the credibility of this witness is not beyond suspicion. Besides, even assuming the genuineness of Exhibit QQ-4, the statement therein concerning appellant would be admissible only as an act or declaration of a conspirator against a co-conspirator, relating to the conspiracy and during its existence, and only after the conspiracy is shown by evidence other than such act or declaration. (Section 27, Rule 130, Revised Rules of Court). In this case there is no independent proof that appellant took part in the conspiracy to commit rebellion.

After thoroughly considering the briefs for the parties and the voluminous evidence of record in this case, We are not prepared to say that Alfredo Palmejar's guilt has been established beyond reasonable doubt. The judgment appealed from is therefore reversed and the said defendant is acquitted, with costs de oficio.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Regala, J., no part.

[1] Court of Appeals resolution of July 23, 1952.

[2] See letter of Acting Director of Prisons dated January 22, 1954.

[3] Resolution of March 14, 1956.

[4] Resolution of June 27, 1958.

[5] Guillermo Capadocia, alias Juan Bantiling, alias HB, alias Tio Huan, alias Iro, alias Mario; Paterno Patrimonio, alias Kulafu, alias Warlito Pulmones, alias Pulmones; Simplicio Casas, alias Stalin, alias Piol; Pablito Gepana, alias Milan; Jesus Nava, Jr., alias Susing, alias Guevarra; Sixto Bocangallo, alias Mirasol, alias Kirab; Hermana Depamaylo, alias Norma Reyes; alias Norma, alias Linda Roa, alias Herminia Depamaylo; Leon Subaldo, alias Tarzan; Espiridion Roche, alias Pedion, alias Pedring; Jose Peregrino, alias Rafael Aba; Nicanor Dimson, alias Fernandez; Pio Gonzales, alias Bungi, alias Manbini, alias Liberato; Teodoro Tejada, alias Paking; Peregrino Atimonan, alias Fred, alias Roland; Placido Menaje, alias Santiago Apostol; Jesus Alegria, alias Jesus Jimenez, alias Jesus Libat, alias Tony; Custodio Solivas, alias Labog, alias Ramon; Jesus Roche; Julian Moquite, alias Bungot, alias Mabini, alias Goyo; Benito Sereño, alias Lopez; Vicente Apostol, alias TNT; Roberto Pascual, alias Nery O. Ty, alias Nery; Jose Patarata, alias Nestor, alias Nestor Dumaices; Alias Abra Ram, alias Ram, alias Ramirez, alias Abra; Demetrio Calanda alias Dikiam; Alias Maktan; Alias Hagibis; Conrado Canto, alias Sweetheart; Tomas Sames; Pablo Asegurado, alias Sakay; Alfredo Ambulosa, alias Pedong, alias Romulo; Napoleon Nava, alias Batotoy, alias Crisostomo; Jose Nualda, alias Vik; Miguel Elevado; Guillermo Gregorio; Tomas Carienena; Marciano Copina, alias Bale; Jose M. Nava, alias Cabesang Tales, alias Tio Tasio; Ricardo Nava and Alfredo Palmejar, alias Ibarra.

[6] During the trial in the lower court two of the fifteen, namely, Guillermo Capadocia and Paterno Patrimonio, were killed in punitive expeditions of the armed forces.

[7] Sixto Bocangallo, alias Mirasol, alias Kirab; Leon Subaldo, alias Tarzan; Espiridion Roche, alias Pedion, alias Pedring; Nicanor Dimzon, alias Fernandez; Pio Gonzales, alias Bungi, alias Manbini, alias Liberato; Teodoro Tejada, alias Paking; Placido Menaje, alias Santiago Apostol; Jesus Alegria, alias Jimenez, alias Jesus Libat, alias Tony; Custodio Solivas, alias Labog, alias Ramon; Jesus Roche; Julian Moquete, alias Bungot, alias Mabini, alias Goyo; Vicente Apostol, alias TNT; Pablo Asegurado, alias Sakay; Alfredo Ambulosa, alias Pedong, alias Romulo; and Conrado Canto, alias Sweetheart.

[8] Tomas Sames; Napoleon Nava; Jose Nualda; Miguel Elevado; Guillermo Gregorio; Tomas Carienena; Marciano Copina; Jose M. Nava; Ricardo Nava and Alfredo Palmejar.

[9] The Court of First Instance of Manila found Federico Maclang guilty of the complex crime of rebellion with multiple murder, arson and robbery. His case is now on appeal in this Court. (G.R. No. L-4974, People v. Jose Lava, et al.)

[10] In the case of People v. Capadocia, et al., L-4907, June 29, 1963, the Court said: "The evidence for the prosecution in this case came from sources that cannot be characterized as fully unbiased and disinterested. Most of the principal witnesses for the prosecution (Rodrigo de Jesus was one of them) against Flavio Nava were political detainees, who could not help but feel that their fate in the hands of the government depended upon the assistance they may give thereto in the prosecution of said appellant."

[11]"There is, at best, a reasonable possibility that said witnesses for the prosecution may have been misled into

concluding that Flavio Nava must have been with the dissidents in the places mentioned in their testimony, because a Huk known by the name of Diego Silang, had allegedly been present in those places, and the prosecution contends that Diego Silang and appellant Nava are one and the same person. The defense, however, introduced evidence, which can not be lightly brushed aside or disregarded, to the effect that Diego Silang is not Flavio Nava but another person." (People v. Capadocia, supra.)

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