

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LORETO RENEGADO Y SEÑORA, ACCUSED AND APPELLANT.

G.R. No. L-27031. May 31, 1974

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

On September 4, 1966, Mamerto de Lira, a teacher of the "Tiburcio Tancinco Memorial Vocational School," died at the Calbayog City General Hospital from a stab wound inflicted upon him a few days before, more particularly, on August 29, within the premises of the school by Loreto Renegado, an employee of the same institution. As a result, the City Fiscal of Calbayog City filed with the local Court of First Instance an Information against Loreto Renegado for "Murder with assault upon a person in authority," which, as amended, reads:

"That on or about the 29th day of August, 1966, at about 9:30 A.M., in Calbayog City, Philippines, and within the premises of the Tiburcio Tancinco Vocational School and within the jurisdiction of this Honorable Court; the above-named accused armed with a sharp-pointed double bladed weapon, with decided intent to kill, with assault upon a person in authority; the deceased being at the time a public school teacher of the Tiburcio Vocational School and therefore a person in authority; and at the time was in the lawful performance of his duties as such or on the occasion of such performance and, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab with his weapon Mamerto de Lira, who, as a result thereof, sustained stab wound on his abdomen which caused his death." (p. 11, original record)

The Hon. Jesus N. Borromeo who conducted the trial of the case found the accused guilty as charged and pursuant to Articles 148 and 248 of the Revised Penal Code in relation to Article 48 thereof, sentenced him to "suffer the supreme penalty of death; to indemnify the heirs of the deceased Mamerto de Lira in the amount of P6,000.00; and to pay the costs." (p. 94,, *ibid*) The case is now before Us on automatic review.

We find the following facts duly established by the evidence of the prosecution:

The Tiburcio Tancinco Memorial Vocational School is run by the national government in the City of Calbayog, and for the school year 1966-67 its principal was Mr. Bartolome B. Calbes, and in his absence, Mr. Felix U. Tingzon was authorized to act as officer-in-charge (Exhibit E). The deceased Mamerto de Lira was a classroom teacher of mathematics in said school with daily classes from Monday to Friday, starting at 7:10 o'clock in the morning till about 4:00 o'clock in the afternoon with vacant periods in-between (Exhibit D) while accused-appellant, Loreto Renegado, was a clerk in the same institution whose duties included the following:

- "1. To type correspondence, memorandum, circulars of the Head of the school.
2. To help type test questions of teachers for every periodical test.
3. To help type reports of the schools.
4. To help type handout of the teachers.
5. To file and account records of the school.

6. To mail some reports, prepared form like Form 137 and mail it, etc." (Exhibit F)

A periodical test was scheduled on September 2, 1966, and the teachers were instructed to submit their questions for approval and cutting of the stencil for mimeographing purposes by August 25 and 26.[1]

At about 4:00 o'clock in the afternoon of Friday, August 26, 1966, appellant Renegado was in the school canteen and other persons present at the time were teachers Natividad Boco, Mrs. Alviola, and Mrs. Benita Tan, and some students. On that occasion Lira entered the canteen and seeing Renegado he requested the latter to type the stencil of his test questions for the examination set for September 2. Renegado answered that he had much work in the principal's office and that typing test questions was not among his duties. Lira reminded Renegado of the instructions of the principal that he could be asked by the teachers to type their test questions especially if the teacher concerned had no knowledge of typing, and Lira finished his remark stating: "you can finish your work if you only will sit down and work." At this remark, Renegado became angry and as he stepped out of the canteen he boxed with his fist a cabinet which belonged to Mrs. Alviola. Seeing the hostile attitude of Renegado, Lira followed the latter outside of the canteen and asked Renegado if he was challenging him. Renegado did not answer but quickly left the place.[2]

On his way out of the school premises, later that afternoon, Renegado passed by the guardhouse where he met security guard. Primitivo Velasco, and Renegado told the latter: "Friend, I will be sad if I could not kill somebody," and having learned about the altercation between Renegado and Lira, Velasco placed his arm around the shoulder of Renegado and pacified him with these words: "Loreto, do not do that because that is a little trouble, you might be able to kill someone and you will be separated from your family." [3] Also on that afternoon before leaving the school, Renegado met Basilio Ramirez, another employee, to whom he recounted his altercation with Lira and ended up saying: "I am going to kill him." Basilio Ramirez, however, advised Renegado: "Padi, do not take that to the extent because to kill a person is not good, think of your family, you have many children." [4]

In the evening of that Friday, August 26, there was a dance at the school premises and on that occasion Renegado was seen cycling around the school several times,[5] and Renegado inquired from security guard, Nicomedes Leonor, if Lira was at the dance. Leonor informed Renegado that the teacher was not around and at the same time advised Renegado thus: "Choy, do not attend to that small trouble and we have families. Have patience because we have families." [6] Another teacher, Arturo Querubin, likewise saw Renegado that evening acting in a suspicious manner and sensing the state of mind of Renegado because of the incident which happened earlier in the afternoon, Querubin approached Renegado, advised him to "calm his temper," and told him "remember, you have plenty of children, please be calm." [7]

Came Monday morning, August 29, and at around 9:00 o'clock, Erlinda Rojo, a bookkeeper in the school, met accused Renegado in the office of the principal. Renegado inquired from Erlinda about his salary loan, and during their conversation, the school janitor called the attention of the two to some boys quarelling near the school's shop building and Renegado remarked: "stab him"; to those words Erlinda replied: "That is the case with you. Your intention is to stab. If that is your attitude, there will be nobody left on earth, they will all die," to which Renegado countered: "So that the bad persons will be taken away and eliminated," and after that exchange of remarks Renegado left the room.[8]

That same morning, past 9:00 o'clock, which was his vacant period, Lira went to the school canteen, sealed himself at the counter, and ordered a bottle of "pepsi cola" from the girls who were then serving, namely, Venecia Icayan and Lolita Francisco. At about 9:30 while Lira was drinking his "pepsi cola", Renegado entered the canteen and seeing Lira with his back towards him, he immediately and without warning stabbed Lira with a knife

hitting the latter on the right lumbar region. The wounded Lira turned around holding his abdomen and raised a chair toward off his assailant who was poised to stab him for the second time. Renegado tried to reach Lira but he was blocked by Mrs. Tan who shouted "Stop it, Loreto, don't anymore." Because of the intervention of Mrs. Tan and the screaming of the girls inside the canteen, Renegado desisted from continuing with his attack and left the canteen.[9] During that incident, Felix Tingzon was also in the canteen having a snack with a guest and although he did not actually see the very act of stabbing, he saw however that when Renegado entered the canteen Lira was beside the counter and had his back towards appellant Renegado.^{9a}

Lira was brought to the Calbayog City General Hospital and was attended by Dr. Erlinda Ortiz who performed an operation on him. Dr. Ortiz found that the weapon of the assailant entered through the right lumbar region of the victim and penetrated the right lower lobe of the liver. Notwithstanding the medical attention given to Lira, the latter died on September 4, 1966, from "hepatic insufficiency" caused by the stab wound which perforated the right lower lobe of the liver resulting in internal hemorrhage.[10]

Appellant Renegado asks Us not to believe the above-given narration of the witnesses for the prosecution and submits instead his own version of the incident as follows:

At about 4:30 o'clock in the afternoon of Friday, August 26, he was in the school canteen for a snack and on that occasion Lira arrived and approached him with a bunch of papers and told him to type the stencil of his test questions; he answered that he could not do the work because he was busy in the principal's office; Lira got mad and pointing his finger at him said: "The question with you is that the work that you can do in a day you finish it in so many days, because you stroll only in the office and keep on sleeping."; scared by the aggressive mood of Lira, he went out of the canteen, but Lira followed him and, overtaking him near the door, boxed him on his stomach; he told Lira he was not fighting back however, Lira angrily shook his fingers at him and said: "don't show yourself to me, I will kill you with maltreatment"; he proceeded to the office of the principal and informed the latter about the incident but the principal advised him not to mind Mr. Lira and to go ahead with his work; later, in the afternoon, he went home; the following morning, Saturday, he was in his house repairing the "pantao" or wash stand and on that occasion spouses Lourdes and Feling Renegado came to the house and they talked about the incident between him and Lira; Lourdes Renegado suggested the filing of a complaint against Lira but he replied he was not taking the matter seriously and, at any rate, he was resigning from his job; on Monday, August 29, at about 7:30 o'clock in the morning he went to his work in the school as usual; upon reaching the school, he proceeded to the room of Miss Rojo to get some papers on which he was working, and then he returned to his room; at about 9:30, he went to the canteen for a snack and on the way, he was "singing, whistling, and tossing a coin in his hand"; before reaching the canteen, he saw Lira and Manuel Cordove conversing and when the two parted, Lira went to his room; upon reaching the canteen, he went to the counter (see Exhibits 3 and 3-A), and while he was there standing, Lira arrived, stood beside him, elbowed him, and said in a loud voice: "Ano ka?"; he turned around to face Lira and the latter banged on the counter the folders he (Lira) was carrying; Lira then placed his right hand inside his pocket, pulled with the other hand a chair and pushed it at him; he became confused and remembered that on Friday afternoon Lira threatened to kill him if he (Lira) would meet him again; after a while he saw Mrs. Tan standing before him and heard her say: "Loreto, don't do that"; upon hearing those words, "he regained his senses" and only then did he realize that he had wounded Lira; he became panicky, left the canteen, proceeded home, and informed his wife that he had wounded a person; he then called for a tricycle, looked for a policeman, and surrendered to the latter.[11]

To corroborate his testimony that in the morning of the stabbing incident he was ahead of Lira in the school canteen, appellant called to the witness stand Manuel Cordove who declared that on Monday morning after he and Lira had conversed and parted, Lira proceeded to his (Lira's) office while he went to his own room and on the way

he passed by Renegado who was then standing by the door of the canteen and greeted him; after a short while he heard shouts from the canteen and he learned that Renegado had stabbed Lira.[12] Another witness, Lourdes Renegado, testified on the conversation between her and her brother-in-law, the herein appellant, on Saturday morning, and she tried to impress the court that appellant Renegado had dismissed from his mind his altercation with Lira and as a matter of fact on the following day, Sunday, she met Renegado who had just come from church and was on his way to attend a cockfight.[13] Appellant's wife, Elena de Guia, also took the witness stand and declared inter alia that when her husband returned home on Friday afternoon and narrated to her the occurrence at the canteen she suggested that a complaint be filed against Lira but her husband said: "never mind"; in the evening of that same day, Friday, her husband invited her to go with him to the school dance, however, she excused herself because of the children; on Monday morning, August 29, her husband reported for work at the school as usual and before leaving the house he told her that he was returning about 9:00 o'clock for his "merienda"; her husband returned later in the morning only to tell her that he had stabbed someone; upon hearing the news she cried out: "Oh my God what have you done to us?", and he replied: "I would not have done that had he not bullied me, he purposely did it to me, that is why I was hurt"; after that, her husband left the house to surrender to the police.[14]

On the basis of the testimony of appellant, his counsel-de-oficio, Atty. Roberto C. Alip, in his well-written brief pleads for an acquittal with the argument that accused should be exempt from criminal liability "because at the precise time that the prosecution claims de Lira was stabbed, accused lost his senses and he simply did not know what he was doing." [15] To bolster his argument on the mental condition of appellant, defense counsel directs. Our attention to that portion of the evidence showing that sometime in June of 1950 Renegado was "clubbed" on the forehead by Antonio Redema and was treated by Dr. J.P. Rosales for head injuries (Exh. 4-A), and as a result of that incident Redema was charged with and convicted of "frustrated murder" in the Court of First Instance of Samar on July 21, 1950; [16] that the head injury of appellant produced "ill-effects" because since that particular occurrence appellant would have fits of violent temper such as maltreating his wife and children for no reason at all, and for which he would ask forgiveness from his wife because "he lost his head." [17]

For purposes of disposing of appellant's defense it becomes necessary to restate certain basic principles in criminal law, viz: that a person is criminally liable for a felony committed by him; [18] that a felonious or criminal act (*delito doloso*) is presumed to have been done with deliberate intent, that is, with freedom, intelligence, and malice [19] because the moral and legal presumption is that freedom and intelligence constitute the normal condition of a person in the absence of evidence to the contrary; [20] that one of the causes which will overthrow this presumption of voluntariness and intelligence is insanity in which event the actor is exempt from criminal liability as provided for in Article 12, paragraph 1, of the Revised Penal Code.

In the eyes of the law, insanity exists when there is a complete deprivation of intelligence in committing the act, that is, the accused is deprived of reason, he acts without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of freedom of the will; mere abnormality of the mental faculties will not exclude imputability. [21] The onus probandi rests upon him who invokes insanity as an exempting circumstance and he must prove it by clear and positive evidence. [22]

Applying the foregoing basic principles to the herein appellant, his defense perforce must fail.

By his testimony appellant wants to convey that for one brief moment he was unaware or unconscious of what he was doing, that he "regained his senses" when he heard the voice of Mrs. Tan telling him: "Loreto, don't do that," and only then did he realize that he had wounded Lira. That, to Us, is incredible. For it is most unusual for appellant's mind which was in a perfect normal state on Monday morning, August 29, to suddenly turn blank at that particular moment when he stabbed Lira. Appellant himself testified that he was acting very sanely that

Monday morning, as shown by the fact that he went to the canteen in a jovial mood "singing, whistling, and tossing a coin in his hand"; he saw the persons inside the canteen namely Venecia Icyan, Lolita Francisco, Benita Tan, Felipe Tingzon and a guest of the latter (all of whom, except the last one, testified for the prosecution); he noticed the arrival of Lira who banged his folders on the table, elbowed him, and said in a loud voice: "ano ka"; he saw Lira put his right hand inside his pocket and with the other hand push a chair towards him; he became "confused" because he remembered that Lira threatened to kill him if he would see him again; at this point he "lost his senses" and regained it when he heard the voice of Mrs. Tan saying: "Loreto, don't do that", and he then found out that he had wounded Lira. If appellant was able to recall all those incidents, We cannot understand why his memory stood still at that very crucial moment when he stabbed Lira to return at the snap of a finger as it were, after he accomplished the act of stabbing his victim. His is not a diseased mind, for there is no evidence whatsoever, expert or otherwise, to show that he is suffering from insanity or from any other mental sickness which impaired his memory or his will. The evidence shows and the trial court did find that appellant is a perfectly normal being, and that being the case, the presumption is that his normal state of mind on that Monday morning continued and remained throughout the entire incident.

The testimony of appellant's wife, Elena, that her husband at times manifests unusual behaviour *exempli gratia*: lashing at his children if the latter refuses to play with him, tearing off the mosquito net if not properly tied, "executing a judo" on her person, boxing her, and so on and so forth, is not the evidence needed to prove a state of insanity. At most such testimony shows that appellant Renegado is a man of violent temper who can be easily provoked to violence for no valid reason at all. Thus in *People vs. Cruz*, this Court held that breaking glasses and smashing dishes are simply demonstrations of an explosive temper and do not constitute clear and satisfactory proof of insanity; they are indications of the passionate nature of the accused, his tendency to violent fits when angry, and inasmuch as the accused was not deprived of the consciousness of his acts but was simply obfuscated by the refusal of his wife to live with him, his conviction for parricide was proper.[23]

Very relevant to the case now before Us is *U.S. vs. Ramon Hontiveros Carmona*, 18 Phil. 62, where the appellant was accused of serious physical injuries committed on his wife, mother-in-law, and sisters-in-law. The accused Hontiveros pleaded insanity as a defense, and claimed that immediately before the incident he had intermittent fever at intervals of a few hours during which he lost consciousness and after he regained consciousness he found himself outside of the house and heard voices commanding him to surrender his weapon, and he came to know that he had wounded his wife, his mother-in-law and sisters-in-law. The Court sustained the conviction of the accused holding:

"In the absence of proof that the defendant had lost his reason or became demented a few moments prior to or during the perpetration of the crime, it is presumed that he was in a normal condition of mind. It is improper to conclude that he acted unconsciously in order to relieve him from responsibility on the ground of exceptional mental condition, unless his insanity and absence of will are proven . . . Acts penalized by law are always considered to be voluntary, unless the contrary be shown, and by this rule of law Ramon Hontiveros, by inflicting upon the offended parties the respective wounds, is considered to have been in a normal, healthy, mental condition, and no weight can be given to the defendant's allegation of insanity and lack of reason, which would constitute an exceptional condition; nor, for lack of evidence, can his state of mind be deemed to have been abnormal." (p. 65; italics ours)

The next point raised by the defense is that the testimonial evidence of the prosecution comes from "biased, partial, and highly questionable sources," and is not to be believed.^{23a}

Appellant claims that it is highly improbable for a person who intends to kill someone to reveal his plan to others such as what the prosecution witnesses Velasco and Ramirez testified that Renegado told them on Friday afternoon that he was going to kill Lira. It may be true that ordinarily one would keep to one's self such a hideous

plot, but the workings of the human mind are at times mysteriously incomprehensible, and to a man like the herein appellant who is pictured by his own evidence to be one of violent disposition, it was natural for him to blurt out his outraged feelings and his evil design to his two co-employees in the school because the incident with Lira was still fresh in his mind at the time.

Appellant also contends that the prosecution witnesses are biased and partial. We find that contention unjustified. The mere fact that the witnesses of the People were employees, students and teachers in the school is no reason to consider their declarations biased in the absence of satisfactory proof that any one of them had personal motives of his own either to favor the deceased or prejudice the herein appellant. In assessing the credibility of the prosecution witnesses, the trial judge found no sufficient evidence proving hostility towards the herein appellant or any notable relationship of friendship with the deceased, and We see no valid reason for discrediting His Honor's findings in this regard. Time and again this Tribunal has stated that the findings of the trial court on the credibility of witnesses are not to be disturbed for the trial judge is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behaviour and manner of testifying during the trial, unless there is a showing that the trial court had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case; in the case at bar, there is no such showing.[24] The rule is so, because as rightly said, the opportunity to observe the demeanor and appearance of witnesses in many instances is the very touchstone of credibility.[25]

As a last issue, appellant claims that the court a quo erred in holding the appellant guilty of "murder with assault upon a person in authority." [26]

The zeal of appellant's counsel-de-officio in pursuing all possible lines of defense so as to secure the acquittal of his client or at least to minimize his liability is truly laudable. However, predicated on the credible and impartial testimonies of the prosecution witnesses the judgment of the trial court finding the accused guilty as charged is to be sustained for the following reasons:

First, the killing of Mamerto de Lira is qualified by evident premeditation. The circumstance of evident premeditation is present because on that very Friday afternoon immediately after the incident at the canteen appellant Renegado, giving vent to his anger, told his co-employee, Ramirez, and the security guard, Velasco, that he was going to kill Lira. That state of mind of appellant was evident once more when he went to the school dance that same Friday evening and was seen cycling around the school premises several times, and he asked another security guard, Nicomedes Leonor, if Lira was at the dance. On the following day, Saturday, appellant met Mrs. Benita Tan to whom he confided that had he seen Lira the night before he would surely have killed him. And on Monday morning, knowing the time of Lira for a snack (tsn, Nov. 17, 1966, p. 307), appellant armed himself with a knife or some bladed weapon which by his own admission on cross-examination was his and which he used for "cutting bond paper" (tsn. *ibid*, p. 299), proceeded to the canteen at around 9:30 o'clock, and seeing the teacher Lira with his back towards him, without much ado, stabbed Lira from behind hitting the victim on the right lumbar region. Appellant's attempt to show that he does not remember how the weapon reached the canteen is of course futile, preposterous as it is. (tsn. *ibid*, pp. 299-300) There is no doubt that the act of appellant in bringing with him his knife to the canteen on Monday morning was the culmination of his plan to avenge himself on Lira for the remark made by the latter on Friday afternoon. Evident premeditation exists when sufficient time had elapsed for the actor to reflect and allow his conscience to overcome his resolution to kill but he persisted in his plan and carried it into effect.[27] Here, appellant Renegado had more or less sixty-four hours from the Friday incident up to 9:30 o'clock of Monday morning within which to ponder over his plan and listen to the advice of his co-employees and of his own conscience, and such length of time was more than sufficient for him to reflect on his intended revenge.

Second, treachery attended the killing of Lira because the latter, who was unarmed, was stabbed from behind, was totally unaware of the coming attack, and was not in a position to defend himself against it. There is treachery where the victim who was not armed was never in a position to defend himself or offer resistance, nor to present risk or danger to the accused when assaulted.[28]

Third, the killing of Lira is complexed with assault upon a person in authority. A teacher either of a public or of a duly recognized private school is a person in authority under Art. 152 of the Revised Penal Code as amended by Commonwealth Act No. 578.[29]

The defense claims, however, that while it is true that Mamerto de Lira was at the time of his death a teacher of the Tiburcio Memorial Vocational School run by the national government, he was not stabbed while in the performance of his duties nor on the occasion of such performance. According to the defense counsel, the motive of the assault is important to determine whether or not the assault falls under Art. 148 of the Revised Penal Code;[30] in the instant case it is clear that the underlying motive for the assault was not that Renegado was asked to type the test questions of the teacher Lira but that the latter made insulting and slanderous remarks to the herein appellant. This contention of the defense is incorrect. The assault or at tack an Lira was committed on the occasion of the performance of the duties of the latter as a teacher because as narrated in the early part of this Decision, Lira was scheduled to give a periodical test on September 2, 1966, and was required to submit his test questions for approval and mimeographing by August 25 and 26; Lira asked appellant Renegado to prepare the stencil of his questions inasmuch as he was not versed with typing; appellant was duty bound to type said stencil under the memorandum-circular enumerating his duties as a clerk of the school; appellant refused the request of Lira under pretext that he had much work in the principal's office and furthermore that typing test questions for teachers was not among his duties; Lira reminded Renegado that the principal gave necessary instructions for that purpose and ended up with the remark: "you can finish your work if you only will sit down and work"; Lira's remark was neither insulting nor slanderous but more of a reminder to Renegado that if he would sit down and work he could finish all the work that had to be done; as a teacher of the school, Lira had the authority to call the attention of an employee of the institution to comply with his duties and to be conscientious and efficient in his work; it was Renegado's violent character, as shown by his own evidence, which led him to react angrily to the remark of Lira and conceive of a plan to attack the latter. Under these enumerated facts, We conclude that the impelling motive for the attack on Mamerto de Lira was the performance by the latter of his duties as a teacher.

In *Justo vs. Court of Appeals*, wherein the offended party was a district supervisor of the Bureau of Public Schools, the Court held that the phraseology "on occasion of such performance" used in Art. 148 of the Revised Penal Code signifies "because" or "by reason" of the past performance of official duty, even if at the very time of the assault no official duty was being discharged, inasmuch as the evident purpose of the law is to allow public officials and their agents to discharge their official duties without being haunted by the fear of being assaulted or injured by reason thereof.[31]

Inasmuch as the crime committed is murder with assault upon a person in authority and the mitigating circumstance of voluntary surrender is offset by the aggravating circumstance of treachery, the penalty of DEATH imposed by the trial court is pursuant to Article 48 in relation to Articles 148 and 248 of the Revised Penal Code. The court a quo, however, in its decision recommends to the President of the Republic the commutation of the death penalty to reclusion perpetua and the Solicitor General* concurs with such recommendation. On the part of the Court, for lack of ten votes for purposes of imposing the death sentence, the penalty next lower in degree, reclusion perpetua, is to be imposed.

PREMISES CONSIDERED, We affirm the conviction of appellant Loreto Renegado for murder with assault on a person in authority and We sentence him to suffer reclusion perpetua and to indemnify the heirs of the deceased

Mamerto de Lira in the sum of twelve thousand (P12,000.00) pesos[32] and to pay the costs. Decision modified.

Makalintal, C.J., Zaldivar, Castro, Fernando, Teehankee, Makasiar, Antonio, Esguerra, Fernandez, and Aquino, JJ., concur.

Barredo, J., took no part.

[1] Exhibits G & G-1; T.s.n. Tingzon, October 8, 1966, pp. 168-172.

[2] T.s.n. Boco, Sept. 28, 1966, pp. 3-8; T.s.n. Tan, Sept. 30, 1966, pp. 99-101.

[3] T.s.n. Velasco, Sept. 29, 1966, pp. 34-35.

[4] T.s.n. Ramirez, *ibid.* p. 58.

[5] T.s.n. Boco, *ibid.* p. 8.

[6] T.s.n. Leonor, *ibid.* pp. 69-71.

[7] T.s.n. Querubin, *ibid.* p. 75.

[8] T.s.n. Rojo, *ibid.* pp. 82-85.

[9] T.s.n. Tan, Sept. 30, 1966, pp. 102-107; T.s.n. Francisco, Oct. 1, 1966, pp. 137-143; T.s.n. Icyan, *ibid.* pp. 151-153.

9a T.s.n. Tingzon, Oct. 8, 1966, p. 175.

[10] Exhibit C; T.s.n. Dr. Ortiz October 7, 1966, pp. 156-159.

[11] T.s.n. Renegado, pp. 265-275.

[12] T.s.n. Cordove, October 14, 1966, pp. 212-215.

[13] T.s.n. Lourdes Renegado, *ibid.* pp. 224-227.

[14] T.s.n. Elena Renegado, October 28, 1966, pp. 244-246.

[15] Appellant's brief, p. 21, p. 98 rollo.

[16] T.s.n. Renegado, Nov. 16, 1966, p. 276; see Exh. 4.

[17] T.s.n. Lourdes Renegado, *supra*, p. 228-229.

[18] Art. 4, Revised Penal Code.

[19] Art. 3, *ibid.* Guevara's Commentaries Revised Penal Code 5th Ed. pp. 5-6.

[20] *People vs. Sia Teb Ban*, 54 Phil. 52.

[21] *People vs. Formigones*, 37 Phil. 658, 661, citing from Judge Guillermo B. Guevara's Commentaries on the Revised Penal Code, 4th Edition, pp. 42--43, Decision of Supreme Court of Spain, November 21, 1891, 47 Jur. Crim. 413 & Decision of Supreme Court of Spain, April 20, 1911, 86 Jur. Crim. 94, 97; see also *People vs. Cruz*, 109 Phil. 288, 292.

[22] *People vs. Bascos*, 44 Phil. 204; *People vs. Formigones*, *supra*; *People vs. Cruz*, *supra*; *People vs. Balondo*, L-27401, October 31, 1969, 30 SCRA 155.

[23] *Supra*, p. 293.

23a Pp. 10-15, appellants brief, pp. 87-92, rollo.

[24] See *People vs. Lumaya*, L-19142, March 31, 1965, 13 SCRA 502, 506; *People vs. Sampang, et al.*, L-15843, March 31, 1966, 16 SCRA 531; *People vs. Orzame, et al.*, L-17773, May 19, 1966, 17 SCRA 161; *People vs. Ablaza*, L-27352, October 31, 1969, 30 SCRA 173; *People vs. Espejo, et al.*, L-27708, December 19, 1970, 36 SCRA 400.

[25] *Connor vs. Connor*, 77 A. 2d 697, cited in *Francisco's Volume VII, Part II, on Evidence Revised Rules of Court*, p. 546, 1973 Ed.

[26] Appellant's brief, pp. 15-21, pp. 92-98 rollo.

[27] *People vs. Ompad et al.*, L-23513, January 31, 1969, 26 SCRA 750; *Guevara's Commentaries on the Revised Penal Code*, Fifth Ed., pp. 56-57.

[28] *People vs. Vicente, et al.* L-26241, May 21, 1969, 28 SCRA 247.

[29] "Art 152. Persons in authority and agents of persons in authority — Who shall be deemed as such. —

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"In applying the provisions of Articles one hundred forty-eight and one hundred fifty-one of this Code, teachers, professors and persons charged with the supervision of public or duly recognized private schools, colleges and universities, shall be deemed persons in authority." (As amended by Com. Act 578, which took effect June 8, 1940)

[30] "Art. 148. Direct assaults. — Any person or persons who without a public uprising, shall employ force or intimidation for the attainment of any of the purposes enumerated in defining the crimes of rebellion and sedition, or shall attack, employ force, or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance, shall suffer the penalty of prision correccional in its medium and maximum periods and a fine not exceeding 1,000 pesos, when the assault is committed with a weapon or when the offender is a public officer or employee, or when the offender lays hands upon a person in authority. If none of these circumstances be present, the penalty of prision correccional in its minimum period and a fine not exceeding 500 pesos shall be imposed."

[31] 99 Phil. 453.

[32] *People vs. Pantoja*, L-18793, Oct. 11, 1968, 25 SCRA 468.

* Mr. Justice Antonio P. Barredo was then the Solicitor General.

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