

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANICETO PEDROSO AND AGUSTIN SALCEDO,
ACCUSED-APPELLANTS.**

G.R. No. L-32997. July 30, 1982

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PER CURIAM:

Mandatory review of the death sentence imposed upon accused-appellants Aniceto Pedroso and Agustin Salcedo in the judgment of the Court of First Instance of Cotabato, Branch IV rendered on November 23, 1970 in Criminal Case No. 57 for robbery in band with double homicide and multiple frustrated homicide.

The accused-appellants Aniceto Pedroso and Agustin Salcedo together with Pedro Adorable, Rodolfo Sante, Jose Sante, Baldomero Cabasaan and Cirilo Almirante, were charged with the crime of robbery in band, double homicide and multiple frustrated homicide in the following Information filed by Provincial Fiscal Alfredo I. Gonzales dated July 2, 1963, as follows:

"The undersigned Provincial Fiscal accuses Pedro Adorable alias Indong, Aniceto Pedroso alias Budon alias Maldo, Rodolfo Sante, Jose Sante, Baldomero Cabasaan, Agustin Salcedo and Cirilo Almirante Alias Eloy Almirante, of the crime of robbery in band with double homicide and multiple frustrated homicide, committed as follows.

That on or about February 10, 1963, in the Barrio of Muslim, Municipality of Tulum, Province of Cotabato, Philippines, within the jurisdiction of this Honorable Court, the said accused, in company with Silverio Acanto alias Ator alias Mayor Alias Bila-an, and Jose Miller alias Bert Alias Silver, who are still at large, conspiring, confederating together and mutually helping one another, armed with unlicensed firearms and bladed weapon, with the intent of gain, did then and there willfully, unlawfully and feloniously and by means of violence, force and intimidation on persons, take and carry away from the dwelling of one Agustin Mallorca, the following personal belongings, namely, one (1) shotgun, 12 gauge with four (4) rounds of ammunition, all valued at P404.00 and cash money of P21.00 owned by said Agustin Mallorca, to his damage and prejudice in the total sum of P425.00; that on the occasion of said robbery and for the purpose of enabling them to steal and carry away the above described articles, the said accused, together with their companions above-mentioned, and in pursuance of their conspiracy, did then and there willfully, unlawfully and feloniously, with treachery and evident premeditation, and taking advantage of their superior strength and with intent to kill, attack and assault Agustin Mallorca, Proceso Mallorca, Iluminada Cabardo, Leticia Mallorca y Agudo, Edmundo Agudo and Natividad Mallorca, and as a consequence thereof, the first two persons suffered mortal wounds which caused their instantaneous death, and the rest four persons sustained serious wounds which ordinarily would cause their death, thus performing all the acts of execution which should have produced the crime of robbery with multiple homicide as a consequence, but nevertheless did not produce it by reason of causes independent of the will of defendants, that is, by the timely and able medical assistance rendered to them which prevented their death.

All contrary to law, and with the aggravating circumstances of superior strength, uninhabited place and in band."

Upon arraignment, all of the accused pleaded not guilty. On August 10, 1966, Pedro Adorable withdrew his former plea of not guilty and changed the same to guilty as charged and was accordingly sentenced.[1] Baldomero Cabasaan and Rodolfo Sante died during the trial and the cases against them were dismissed on October 29, 1966 and November 13, 1970, respectively.[2]

The prosecution presented the following witnesses: (1) Municipal Judge. Elena de Leon of Tulunan, Cotabato; (2) Dr. Nicanor Capatan; (3) Dr. Jesus Cuerpo; (4) Edmundo Agudo; (5) Antonina Mallorca; and (6) Sgt. Almazan. Thus, the following facts were proved:

On February 10, 1963, at approximately 6:00 a.m., seven (7) persons all armed with short guns went to the house of Proceso Mallorca at Bo. Muslim, Tulunan, Cotabato.[3] Leticia Mallorca, Edmundo Agudo, Consuria Palid, Melentia Mallorca, Maxima Mallorca, Lilibeth Mallorca, Luchi Mallorca and Edmar Mallorca were up-stairs in the sale of said house,[4] while Proceso Mallorca and Agustin Mallorca were in the store located in the ground floor of the house.[5] Accused-appellants Aniceto Pedroso and Agustin Salcedo together with Pedro Adorable, Rodolfo Sante and Baldomero Cabasaan bought cigarettes from the store under the house and when Proceso Mallorca, the owner, handed to them the cigarettes, they pointed their guns at the latter.[6] Beriong Bungi and Rodolfo Sante, with drawn guns, accosted Agustin Mallorca.[7]

Appellants Pedroso and Salcedo, and Pedro Adorable went upstairs and threatened Edmundo Agudo, Antonina Mallorca, Maxima Mallorca, Leticia Mallorca, Iluminada Mallorca and the children of Proceso Mallorca.[8] Rodolfo Sante stood guard in front of the house.[9] They were then heard to say, "Don't move, don't shout, if you don't want to die." [10] They tried to force Edmundo Agudo to take out the gun he was keeping [11] and appellant Agustin Salcedo in fact searched the house for said gun.[12] Not seeing the gun, appellant Salcedo went down the house and he, together with Rodolfo Sante and Beriong Bungi, brought Proceso Mallorca upstairs.[13] Beriong Bungi asked Proceso Mallorca about a shotgun [14] to which the latter refused to answer. Thereupon, Beriong Bungi kicked him [15] and Rodolfo Sante forced him to lie flat on the floor.[16] Instead of lying flat on the floor, Proceso Mallorca jumped from the balcony of the house,[17] and the seven (7,) intruders, herein appellants included, immediately fired at Proceso Mallorca.[18] The latter was hit, fell to the ground and was unable to run any further.[19]

Almost simultaneously, the robbers, herein appellants included, also fired at Edmundo Agudo, Leticia Mallorca, Iluminada Mallorca, Antonina Mallorca and Maxima Mallorca.[20] Beriong Bungi went down the house saying that they are the number one holduppers and that he is Beriong Bungi.[21] Thereupon, all the seven (7) persons searched the house.[22] They obtained money from Leticia Mallorca and Maxima-Mallorca,[23] and got one shotgun with four rounds of ammunition [24] as well as dry goods being sold in the store.[25]

After the robbers have left, Antonina Mallorca went towards the road and saw Cirilo Almirante and Jose Sante standing in the cornfield [26] and as she was passing the place, Cirilo Almirante and Jose Sante immediately stood and shouted, "Chase her!"; [27] however, one of them said not to do so since she was already wounded.[28]

As a result, Proceso Mallorca and Agustin Mallorca died because of the gunshot wounds they suffered as verified by Dr. Jesus Cuerpo, Municipal Health Officer of Mlang, Cotabato.

Accused Rodolfo Sante was apprehended on February 10, 1963, between 2:00 and 2:30 o'clock in the after-noon by a Philippine Constabulary patrol led by Capt. Lachica at Bo. Maybula, Tulunan, Cotabato, and confiscated from him (Sante) was a .45 caliber revolver. The other accused Pedro Adorable, Baldomero Cabasaan and appellants Aniceto Pedroso and Agustin Salcedo were apprehended by a PC patrol led by Cpl. Diserio Yamota.

All of the accused, Aniceto Pedroso, Agustin Salcedo, Rodolfo Sante, Pedro Adorable and Baldomero Cabasaan

separately signed and subscribed to extra-judicial confessions stating the participation of each accused in the crime, before Municipal Judge Elena de Leon of Tulunan, Cotabato.[29]

The version of the defense hinges upon the defense of alibi. The accused Agustin Salcedo testified that on February 10, 1963, at about 6:00 o'clock in the morning, he was with Felimon Mediana grazing his carabaos at barrio Lampagang, Tulunan, Cotabato.[30]

The accused, Aniceto Pedroso set up a similar defense of alibi, in that he was, from 5:00 o'clock to 8:00 o'clock in the morning of February 10, 1963, grazing his carabao at barrio Minapan, Tulunan, Cotabato.[31]

On November 23, 1970, after due trial, the court a quo rendered judgment, the dispositive portion of which reads as follows:

"WHEREFORE, the court renders the following judgment: That with respect to the accused, Cirilo Almirante and Jose Sante, the prosecution has not presented any evidence against the said accused, as may be borne by the records of the case other than the casual mention of their having been seen near the road leading to the highway by Antonina Mallorca and for the failure of the prosecution to present evidence against them and to prove their guilt beyond reasonable doubt of the crime of robbery in band with double homicide, and multiple frustrated homicide, hereby acquits them thereof, with costs de oficio.

With respect to the accused, Aniceto Pedroso and Agustin Salcedo, the Court believes that the prosecution has established their guilt beyond any shade of doubt of the composite crime of robbery in band, double homicide, and multiple frustrated homicide, and sentences them to suffer the maximum penalty of death, to pay the aggrieved party the amount of P404.00, the value of the stolen articles, and to indemnify the heirs of each of the victims jointly and severally the amount of Twelve Thousand (P12,000.00) Pesos, and each to pay one-sixth (1/6) of the costs.

SO ORDERED."

From the aforementioned decision, appellants assigned three (3) errors contending that:

- I. The trial court erred in classifying the injuries sustained by spouses Edmundo Agudo and Leticia Mallorca as frustrated homicide.
- II. The trial court erred in finding that the value of stolen properties in the above-entitled case was P404.00.
- III. The trial court erred in giving undue weight and credence to the evidence of the prosecution, particularly the testimonies of Antonina Mallorca and Edmundo Agudo, while not giving any weight and credence to the evidence of the accused-appellants.

The first two assigned errors deserve scant consideration to warrant a reversal of the penalty imposed by the lower court. As to the first error, it may be conceded that the wounds sustained by the spouses Edmundo Agudo and Leticia Mallorca were not fatal as in fact Dr. Nicanor S. Capatan testified as follows:[32]

"Q. In your opinion as a doctor, what could you say would have been the gravity or seriousness of the wounds sustained by Leticia Agudo as indicated on Exhibit "I"?

A. The wound is trivial in nature.

Q. What makes you say so?

A. Well, it is not fatal. She was able to walk and she was strong.

Q. Could you say that without medical assistance she could have died for it?

A. No, sir.

Q. How long have you rendered medical assistance to this Leticia Agudo?

A. Five days, sir.

Q. At the time she left your clinic, the wounds were still there?

A. The wounds were in the process of healing.

Q. But they were not yet totally healed?

A. Yes, sir."

With respect to the second error, there is the admission of the accused Aniceto Pedroso in his extra-judicial confession that the money taken amounted to only P15.00[33] but it was also proved that the accused persons took and carried away one shotgun, 12 gauge with 4 rounds of ammunition, cigarettes, cans of salmon and other goods from the store. Although there is no direct and specific proof of the values of these articles, it is properly within the Court's power and discretion to estimate the total amount to be P404.00 as directed in the appealed decision and order payment of the sum to the victims. At any rate, the error if any is not reversible to alter the imposition of the penalty of death.

Notwithstanding the two aforementioned errors, the same do not materially affect the crime committed which is the special complex crime of robbery with homicide penalized in Article 294 (1)[34] of the Revised Penal Code, and not, as erroneously denominated by the court a quo as "robbery in band, double homicide, and multiple frustrated homicide." There is no special complex crime of robbery in band with double homicide and/or serious, less serious or slight physical injuries under the present Code, as amended by Republic Act No. 373. If robbery with homicide (or with the other crimes enumerated above) is committed by a band, the indictable offense would still be denominated as "robbery with homicide" under Article 294 (1), but the circumstance that it was committed by a band is not an element of the crime but is merely a generic aggravating circumstance which may be offset by mitigating circumstances.[35] The homicides or murders and physical injuries, irrespective of their numbers, committed on the occasion or by reason of the robbery are merged in the composite crime of "robbery with homicide." However, where two or more persons were killed on the occasion of robbery, the additional killing should be appreciated further as an additional aggravating circumstance, the reason being that "there will obtain an anomalous situation where, from the standpoint of the gravity of the offense, robbery with one killing would be on the same level as robbery with multiple killings.[36]

In the case at bar, two persons, Proceso Mallorca and Agustin Mallorca, were killed on the occasion of the robbery. The seven malefactors who took part in the commission of the offense were all armed. Under Article 294 (1) of the Revised Penal Code, the penalty imposable for the crime of robbery with homicide are two indivisible penalties of reclusion perpetua to death.

There being the aggravating circumstance of band and two homicides, the extreme penalty of death should be affirmed. There is no further need to consider the physical injuries which were alleged in the information and subsequently proved during the trial to have been committed by the accused on the occasion of the robbery for purposes of determining the proper penalty to be imposed. Anyway, with or without such consideration, the conclusion would be the same -- the accused should be sentenced to the maximum penalty provided by law.[37]

Anent the third assigned error, appellants stress the inconsistency in the testimony of Edmundo Agudo who testified that the seven armed men who perpetrated the offense were all armed with short guns as against the declaration of Antonina Mallorca that not all of the seven men were armed with short guns. Appellants emphasize

that this inconsistency is too important to be overlooked and ignored for it is sufficiently serious in itself to cast a reasonable doubt on the credibility as well as the accuracy of the prosecution witnesses aforementioned.[38]

Appellants' contention is untenable. A careful perusal of the records will reveal that the inconsistency stressed upon by the appellants is more apparent than factual. The testimony of the aforementioned witnesses are congruous in its material and substantial details. In fact, Antonina Mallorca (whose testimony allegedly counters with that of Edmundo Agudo) succinctly affirmed that the malefactors were all armed with short guns in the following manner:[39]

"FISCAL PERALTA:

Q. How many of them were armed with short guns?

A. I do not know how many of them were...

COURT:

Let the witness answer the question categorically.

A. All of the seven of them were armed with short guns, sir."

Assuming that there is an inconsistency in the testimonies of the witnesses as to the appearance of the guns, the discrepancy is not of such magnitude and character sufficient to affect the substance of their declarations much less impair the credibility of the witnesses who positively identified the accused as perpetrators of the crime. The alleged size of the guns is merely trivial and constitute a minor detail which does not, in actuality, touch upon the basic aspects of the who, the how, and the when of the crime committed. We have repeatedly held that minor inconsistency does not affect witness credibility.[40] Thus, the very important fact, that all of the robbers were armed with guns, will remain and subsist, irrespective of whether the guns are long or short.

The lower court, in arriving at the decision appealed from, took into account the contents of Exhibits "B" and "D". However, appellants assailed their extra-judicial confessions (Exh. "B" and "D"), alleging that: "the same were extorted by physical violence directed against them by the PC soldiers who arrested them without any warrant to that effect (Tsn, pp. 7-8, July 24, 1967; p. 14, July 14, 1967)." They claim further that "on account of their being unlettered farmers (Tsn, p. 8, July 24, 1967) at the time of the investigation which led to the execution of Exhibits "B" and "D", they were interrogated in Ilongo and that they gave answers also in Ilongo (Tsn, p. 16, July 14, 1967; p. 7, July 24, 1967). In effect they categorically stated that the answers in English contained in Exhs. "B" and "D" were not theirs." [41]

There are overriding circumstances and considerations which constrain Us to hold that the extra-judicial confessions were voluntarily given by the appellants. Firstly, the statements are replete and full of details, which could only be known by appellants themselves and could hardly been supplied by disinterested police officers. Appellant Pedrosa admitted that only P15.00 in money was taken from the house of Proceso Mallorca during the incident; that the persons who shot and killed the occupants of the house were Biryong Bungi, alias Ator, alias Mayor, alias Bila-an; Butitoy alias Bitoy; Naldo Agustin alias Gustin; Rodolfo Sante; Pedro Adorable and he.[42] While appellant Agustin Salcedo, in his statement admitted that he was armed with .38 caliber revolver; that he twice hit a woman and another occupant of the house on the right arm; that he was assigned to surround the vicinity and after that he posted himself by the stairs of the door.[43]

Secondly, the narrations contained in their affidavits (Exh. "B" and "D") are so fully informative, in many instances going beyond what the question calls for, which indicate that the mind of the declarants were free from extraneous compulsion or restraint. Thus, Aniceto Pedroso declared the following in his affidavit:[44]

"12. Q. After that talking of around 30 minutes, where did you and the group proceeded?

A. We all went to the national road. We went to a house whose owner I do not know. They talk with the owner. They went to another house. We drink beer in the store or house of Nono in Bual. We consumed about one (1) case beer. We went to the house of Doming and get money. They did not give us money on that night. It was already on the following morning. They gave it to Jose Sante. I do not know the amount given to him. We went next to the house of Tay Leoncio. He gave the money also the following morning. We next went to the house of certain Asa. The same the money was given the following morning.

13. xxx xxx xxx

14. Q. It will appear in the statement of Pedro Adorable, the name of Necesito Pedroso, what have you in relation to the same name?

A. I am the same person, sir. My alias is Budon.

x x x x x x x x

22. Q. What time did the group reach the house of Proceso?

A. We passed the lot road leading to the house of Proceso and reaching thereat about 6:00 o'clock in the morning.

23. Q. In what manner did the group proceeded thereat the house of Proceso?

A. We walk but when we were very near the house, it rained and Beriong and Butitoy used a banana leaf to cover their body from getting wet. Then, we ran towards the house of Proceso, as Beriong shouted 'Manilong ta.' When we were all at the house outside, Butitoy bought cigarettes (marine) from Proceso, he was able to buy, then Butitoy or Bitoy pulled out pistol and pointed it to Proceso and Maldo held both hands of Proceso by the back. He was lead upstairs while Beriong was already ahead and went upstairs. Beriong met Butitoy and Maldo together with Proceso upstairs. I went up with Rodolfo Sante upstairs, but Beriong advised me to go down, and Rodolfo Sante was left upstairs. I went down then I heard a shot followed by many shots directed at Proceso who I saw jumped out of the balcony. Butitoy fired at Proceso then followed by Beriong who went down and shoot Proceso several times. Many more shots followed. I was holding a revolver 38, but I tried to squeeze and I fired one round. My target is the old woman who was carrying a small child in her arms. I missed the shot and then, Beriong told us to get out immediately. Then they all went down and I saw Beriong carrying a shotgun. We all went out the house and proceeded to Lampagang. Pedro Adorable and Rodolfo Sante were left behind at Maybula.

x x x x x x x

28. Q. Do you know if there were cash money taken from the house of Proceso during the incident?

A. Yes, sir, only FIFTEEN (P15.00) pesos."

The affidavit of accused Agustin Salcedo contains the following informative details,[45] thus:

"15. Q. Upon reaching the house of Proceso, what did you do?

A. When we approached the house, I was assigned to surround the vicinity and after that I posted myself at the door just after the 3rd steps of the ladder.

x x x x x x x

17. Q. How many times did you fire your revolver during that incident?

A. I fired twice hitting a woman also an occupant of the house on her right arm.

18. Q. What was the position of that woman when you shot her?

A. She was running inside the house.

19. Q. What did you take and carried away from the house after you killed Proceso and Agustin Mallorca?

A. I could not just determine because the things taken were all placed inside the sack handed to me by Butitoy and I was assigned to bring it. I also saw a riot shotgun taken from the house and brought by one of our companion named Joe, after we left."

Thirdly, although the statements contained in the affidavits are in English, Municipal Judge Elena de Leon of Tulunan, Cotabato to whom said confessions were signed, subscribed and sworn to, who could speak the Ilongo dialect very well,[46] clearly testified that after she had translated the statements in Ilongo dialect, appellants answered that said statements were true, and that nobody forced, compel or intimidated them into signing or executing the same. Thus, Judge de Leon testified:[47]

"Q. Before letting this Aniceto Pedrosa sign this Exh. "B", what did you do?

A. I asked him what dialect he speaks and understands.

Q. What did he answer?

A. He said Ilongo dialect.

Q. What did you do?

A. I told him that I am going to read his statements one by one and instructed him to advise me if there are statements that are not true.

Q. And after that?

A. Then I further asked him if those statements are his own and given freely and voluntarily, and that if there was somebody who forced or maltreated him to make the statement, and he answered there was none, and all the statements were his own and were given freely and voluntarily.

Q. You want the Hon. Court to understand that you read the contents of Exh. "B", especially the questions and answers one by one to Aniceto Pedrosa?

A. Yes, sir, in the Ilongo dialect.

Q. And after reading the contents to him, what did he say?

A. He said that those statements are all true and that nobody forced him to make those statements.

xxx xxx xxx

Q. Before letting this Agustin Salcedo affix his thumbmark on this Exh. "D", what if any, did you do?

A. I asked him what dialect he speaks and understands, and he answered Ilongo dialect.

Q. And after that?

A. I told him that I am going to read every line of the statement in Ilongo dialect and instructed him to advise me which statements are not true and correct.

Q. And you read the contents one by one?

A. Yes, sir.

Q. After reading the contents of Exhibit "D" to him what else did you do?

A. I asked him if that statement was his own and given voluntarily and if there was anybody who forced and intimidated him to give his statement.

Q. And after that, that was the time he thumbmarked Exh."D"?

A. Yes, sir."

Aside from the presumption that Judge de Leon has regularly performed her duty, We find no motive, interest or bias on the part of Judge de Leon to besmirch or bargain away her reputation for truth, honesty and integrity. We could not believe that a person of the status of a municipal judge would be so depraved and perverted to conspire and falsely impute a capital offense to an innocent person.

Finally, the testimonies of alleged maltreatment were uncorroborated; the appellants did not attempt to present any corroborating witness. In *People vs. Revotoc*,^[48] We held that: "where the testimonies of the accused (that violence was inflicted upon them in the process of obtaining their confessions) are uncorroborated, such confessions must be conclusively held to be voluntary. Their testimonies standing alone, cannot withstand the unyielding strength of the settled rule that an extra-judicial confession is presumed to have been willingly and freely given until the contrary is clearly and fully shown."

It is not necessary to delve further upon the appellants' defense of alibi as the prosecution has proved beyond reasonable doubt the offense charged. The witnesses presented by the prosecution have made positive and proper identification of the offenders. It is basic and well-entrenched that the defense of alibi cannot stand against positive identification.^[49] Besides, the appellants were not able to prove that it was physically impossible for them to be at the scene of the crime. "To establish alibi, accused must not only show that he was present at some other place at about the time of alleged crime, but also that he was at such other place for so long a time that it was impossible for him to have been at the place where the crime was committed, either before, during or after the time he was at such other place."^[50]

In sum and substance, the extra-judicial confessions of the appellants having been made voluntarily, corroborated with incontrovertible proof of corpus delicti are sufficient to sustain a conviction.^[51] The records satisfactorily proved the fact of loss sustained and the fact of death. No less than two witnesses (Edmundo Agudo and Antonina Mallorca) who were in concord, testified to the fact of loss. They stated in open court that the appellants were able to rob one shotgun, an ammunition, goods that were sold in the store of the victims and certain amount of money, the sum of which they do not know.^[52] The fact of death of Proceso Mallorca and Agustin Minorca was established by the post-mortem findings^[53] and court testimony of Dr. Jesus Cuerpo, the Municipal Health Officer of Mlang, Cotabato.^[54]

The crime committed is the special complex crime of robbery with homicide defined and penalized in Article 294 of the Revised Penal Code. As previously discussed, We have considered the aggravating circumstances of band and double homicide against the accused. Since no mitigating circumstances exist and the crime is punishable with reclusion perpetua to death, the correct and proper penalty is the supreme penalty of death.

WHEREFORE, with the modification of the proper denomination of the crime, the judgment is hereby AFFIRMED in all other respects.

SO ORDERED.

Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur. Fernando, C.J., no part. Abad Santos, J., votes for conviction but in view of the long preventive detention of the appellants, the proper penalty is reclusion perpetua.

[1] Records, pp. 224-226.

[2] Ibid., pp. 248, 310.

[3] T.S.N., September 10, 1964, pp. 4, 31-32; November 12, 1964, p. 33.

[4] T.S.N., November 12, 1964, p. 5.

[5] T.S.N., September 10, 1964, p. 6; October 29, 1964, p. 4.

[6] T.S.N., September 10, 1964, pp. 5-7.

[7] T.S.N., October 29, 1964, pp. 11-12, 26.

[8] T.S.N., September 10, 1964, pp. 8-12, 17; October 29, 1964, pp. 13-18.

[9] T.S.N., September 10, 1964, p. 15.

[10] T.S.N., November 12, 1964, p. 6.

[11] T.S.N., September 10, 1964, p. 9.

[12] Ibid., pp. 10, 17.

[13] Ibid., pp. 18-19.

[14] T.S.N., November 12, 1964, p. 14.

[15] Ibid., pp. 14-15.

[16] T.S.N., September 10, 1964; p. 19.

[17] T.S.N., September 10, 1964, p. 12; November 12, 1964, pp. 14-15.

[18] T.S.N., September 10, 1964, pp. 21-22.

[19] Ibid., p. 21; November 12, 1964, p. 16.

[20] T.S.N., September 10, 1964, pp. 22-23; October 29, 1964, p. 22; November 12, 1964, pp. 15-16.

[21] T.S.N., November 12, 1964, pp. 16-17.

[22] T.S.N., Sept. 10, 1964, pp. 25-26; October 29, 1964, p. 16.

[23] T.S.N., September 10, 1964, p. 27.

[24] Ibid., p. 26.

[25] T.S.N., November 12, 1964, pp. 20-21; September 10, 1964, p. 27.

[26] T.S.N., November 12, 1964, pp. 25-26.

[27] Ibid., pp. 26-27.

[28] Ibid., pp. 27-29.

[29] Exhibits A, B, C, D, E, Records, pp. 27-47.

[30] T.S.N., July 14, 1967, p. 10.

[31] T.S.N., July 24, 1967, p. 3.

[32] T.S.N., August 26, 1964, pp. 10, 17.

[33] Exhibit B, Records, p. 35.

[34] Article 294 (1) provides: "Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer the penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed."

[35] People vs. Garachico, et al., L-30849, March 29, 1982; People vs. Genuguin, 56 SCRA 181; People vs. Saquing, 30 SCRA 34; People vs. Aduhan, 24 SCRA 798.

[36] People vs. Mabilangan, et al., L-48217, January 20, 1982.

[37] People vs. Ubaldo, 24 SCRA 735, 765.

[38] Appellants' brief, p. 6.

[39] T.S.N., November 12, 1964, p. 33, underscoring supplied.

[40] People vs. Castañeda, 93 SCRA 56; People vs. De La Cruz, 91 SCRA 525; People vs. Molo, 88 SCRA 22.

[41] Appellants' brief, p. 8.

[42] Exhibit B, Records, pp. 33-35.

[43] Exhibit D, Records, p. 41.

[44] Exhibit B, Records, pp. 33-35.

[45] Exhibit D, Records, p. 42.

[46] T.S.N., August 27, 1963, p. 4.

[47] Ibid., pp. 7, 12-13.

[48] L-7425, July 25, 1981.

[49] People vs. Arojo, 105 SCRA 133; People vs. Aquel, 97 SCRA 795; People vs. De La Cruz, 97 SCRA 385; People vs. Mercado, 97 SCRA 232.

[50] People vs. Muñoz, L-38016, September 10, 1981; People vs. Bermoy, L-48502-03, June 17, 1981.

[51] Sec. 3, Rule 133; People vs. Revotoc, supra; People vs. Jimenez, et al., L-36613-14, July 24, 1981; People vs. Narciso, 23 SCRA 844; People vs. Reyes, et al., 17 SCRA 279.

[52] T.S.N., September 10, 1964, pp. 26, 27, 34; T.S.N., November 12, 1964, pp. 20, 21, 23, 24.

[53] Exhibit "K" and "L", Records, pp. 25-26.

[54] T.S.N., February 20, 1967, pp. 1-6.

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