

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
MAMERTO GARCIA, ET AL., DEFENDANTS MAMERTO GARCIA,
DEFENDANT AND APPELLANT.**

G.R. No. L-4145. January 25, 1952

Ponente: TUASON, J.

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TUASON, J.:

The sole question at issue in this appeal is the sufficiency of the evidence to sustain the appellant's conviction. Mamerto Garcia, the appellant, was, by the Court of First Instance of Cagayan, found guilty of robbery with homicide and sentenced to reclusion perpetua to pay the heirs of the deceased, Tio Yu o Kiana, P2,000 as indemnity for Tio's death, P500 in restitution of the amount in cash found to have been robbed, and 1/3 of the costs. Prosecuted with the appellant were Leonora Cabasag and Proceso Taguinod, mother and son, but these were acquitted on the grounds of reasonable doubt.

Tio Yu o Kiana, a Chinese citizen, had a store in a room set aside in a rented house where he lived, In barrio Pata, municipality of Tuao, province of Cagayan. Between 1 and 2 o'clock in the afternoon of July 1, 1970, when Tio YU was alone in that store, he was slain, his trunk was forced open and the place ransacked. On examination, the body revealed these injuries:

"Contusion and ecchymosis of the left frontal region;

Contusion and ecchymosis of the left eyelid and below the left eye;

Contused wound on the left temporal region and

Blood came out profusely from the nose, mouth, eyes and ears."

Eulalia Eustaquio, Tio's neighbor, testified that all the three defendants resided in her barrio; that on July 1, about 2 o'clock In the afternoon, she came to Tio's store to make purchases; that from Tio's yard she saw Taguinod and Garcia coming down the stairs of Tio's house with a bundle and a rooster respectively and thence go west; that after these two accused were gone she went up the house and met at the sala Leonora Cabasag who exclaimed upon seeing her, "Ay, Kiana died because he was drunk;" That Leonora Cabasag was trembling and pale when she said Kiana was dead; that the witness peered into the store through the door and saw Kiana sprawled out on the floor face upward, with copious blood from the mouth and nose; that she then returned home but did not report the matter to the authorities because she was afraid, although on October 5 she told Kiana's brother, who lived In another barrio, what she had seen.

On the 3rd day of July, 1990, Mamerto Garcia was questioned by the municipal mayor and the police and confessed. In his statement, which was reduced to writing and subscribed and sworn to before the municipal mayor, he related how he and Taguinod had planned and carried out the killing and gave their motive as robbery. He there and then produced two clubs which he said he and Taguinod had used. And on July 9, he ratified that statement before the provincial fiscal also under oath.

The court below was fully convinced of Eulalia Eustaquio's veracity. In acquitting appellant's co-defendants, His Honor felt that, as Eulalia Eustaquio did not see the slaying, her testimony alone was insufficient to warrant their conviction. As to Garcia, the court believed, it was a different story' Eulalia Eustaquio's testimony was corroborated by Garcia's confessions.

Eulalia Eustaquio's evidence leaves no room for doubt in our mind as to the appellant's guilt. Eros the fact that he was seen coming out of the victim's house or store immediately after the robbery with son of the loot in his hands, and when no one was around except the woman defendant, the inference is certain that he, appellant, had committed the crime or had an active part in its commission. How could these circumstances be reconciled with appellant's innocence? If, as the defendant wanted the court to believe, the Chinese was drunk and had died by accident, why did he hurriedly leave instead of helping the Chinese? Why did he not at least wait for the Chinese's relatives or the authorities? He not only did nothing of the kind but kept quiet even after the Investigation had started, living as he did in the neighborhood of the crime.

Appellant's confessions, of course, make Eulalia Eustaquio's strong evidence much stronger. The appellant's testimony repudiating his confessions on the allegation that he had been maltreated is against overwhelming evidence for the other side. It is significant that the appellant alone testified about the alleged maltreatment when, according to him, he had been tortured in the presence of several people.

The defense of alibi, in itself very weak, easily yields to Eulalia Eustaquio's positive testimony, corroborated by the defendant's confessions. The trial court properly dismissed this defenses unfounded like his repudiation of his confessions.

On the amount of money stolen the decision conforms to the proofs. Chua Co, Kiana's elder brother, testified that on June 5 the deceased borrowed from him P380.00 to invest in tobacco, corn and rice, telling him that he had only P120.00 but needed P500.00 to make the purchase, and that on the 29th, the last time he saw Tio alive, the latter Informed him that he was still waiting for the price of the above commodities to come down. He added that the merchandise in Tio's store was worth P500.00. Complementing this evidence, the municipal mayor, the sergeant of police and other members of the police force declared that they had found merchandise scattered in the house or store and only 34 centavos In the trunk whose lock had been broken.

With the modification that the indemnity for the offended party's death shall be raised from P2,000 to P6,000 as recommended by the Solicitor General, the appealed judgment is affirmed, with costs against the appellant.

Paras, Feria, Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

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