

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
TOMAS MOQUIADI, ET AL., DEFENDANTS. POLINDO DACUCUS AND  
PEDRO DACUCUS, DEFENDANTS AND APPELLANTS.**

*G.R. Nos. L-9759-61. February 25, 1960*

Ponente: REYES, J.B.L., J.

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**REYES, J.B.L., J.:**

Tomas Moguiadi, Danis Bagulin, Pedro Dacucus and Polindo Dacucus were charged before the Court of First Instance of La Union with the crime of murder, in two separate informations, for the killing of Pedro Cabading and Mariano Bunagan (Criminal Cases Nos. 1297 and 1302). Polindo Dacucus, one of the defendants in the murder indictments, was also accused in another information filed before the same court with illegal possession of firearm (Criminal Case No. 1301).

In view of the relation of facts in the three cases all were tried jointly upon agreement of the parties. After trial, the lower court found guilty of murder, in Criminal Cases Nos. 1297 and 1302, defendants Pedro Dacucus, Tomas Moquiadi and Danis Bagulin as principals and Polindo Dacucus as accomplice, and accordingly sentenced each of the first three accused in each case to reclusion perpetua, and Polindo Dacucus in each case to an indeterminate penalty of from six (6) years and one (1) day of prision mayor to thirteen (13) years of reclusion temporal. All were likewise ordered to indemnify, jointly and severally, the heirs of the deceased victims in the amount of P6,000.00 for each. In Criminal Case No. 1301, Polindo Dacucus was further sentenced to an indeterminate penalty of from five (5) years and one (1) day to six (6) years of imprisonment.

From the joint decision, only Pedro Dacucus and Polindo Dacucus appealed to this Court, while Moquiadi and Bagulin started serving their respective sentences.

It is a fact in evidence that around midnight of the 27th of October, 1951, in sitio Ayusip, barrio of Alibangsay, municipality of Bagulin, La Union, Pedro Cabading and Mariano Bunagan Were shot to death inside their respective houses by a group of armed men.

The prosecution established that while the deceased Pedro Cabading was already asleep in his house with his family, he was awakened by someone calling from the yard. Upon inquiry as to what the intruder wanted, the latter asked for some water. In the meantime, Mienda Balaan, the wife of the deceased, who was also awakened, had gotten hold of a flashlight and upon flashing it outside, she saw and recognized Tomas Moquiadi standing on the second rung of the stairway and Danis Bagulin in the yard about 1-½ meters behind Moquiadi. She also noticed other men around but was not able to identify them. As her husband Cabading stepped out and was about to hand, over the glass of water, a volley of shots met him and death was instantaneous. Scared, Mienda sought cover,

A few minutes later, in the house of Mariano Bunagan, not far away from the Cabadings, a similar fate befell the inmates. Bunagan, also awakened by a group of armed men, lighted a lamp hanging from the middle beam of the house and as he opened the door, he was forthwith greeted with a volley of shots that felled him and caused him

to expire a little later.

The prosecution implicated the appellants Pedro Dacucus and Polindo Dacucus in the crimes upon the testimony of Pablo Dingcug, Pancho Angadol, Macario Awingan, Pedro Gamlosen and Wagsey Sayang-od.

Wagsey Sayang-od, a resident of barrio Nagyoboyoban, San Fernando, La Union, asserted that he spent the night in the house of deceased Bunagan on the date of the incident; that upon seeing the latter hit by bullet shots, he jumped out of the window only to be met on the ground I by someone who grabbed him by the shoulder; that as he struggled to free himself, he recognized his assailant by the light of the lamp thrown against the latter to be Pedro Dacucus; and that soon after he was able to escape the attacker's hold, Wagsey fled under cover of darkness.

Pedro Dingcug testified that in the afternoon of October 27, 1951, while in the house of Polindo Dacucus, he saw the latter hand over to his brother, Pedro, who was allegedly then with Moquiadi and Bagulin, something that was wrapped in a sack and which, when taken out, turned out to be a gun; and that as the trio were about to leave the premises, Pedro supposedly told Polindo, "You may remain".

Pancho Angadol's testimony is to the effect that on the 28th of November, 1951, Polindo Dacucus came to see him (Pancho) at his residence at sitio Lay-laya, barrio Cardiz, Bagulin; that Polindo then and there turned over to him a carbine for safe-keeping, with instruction that should he be questioned about the gun, to say that it was given to him since August of 1951; that on the same occasion, Polindo confided to this witness his participation in the wrongs committed against Cabading and Bunagan by delivering the gun to Pedro Dacucus, Moquiadi and Bagulin, with knowledge of the unlawful plot of the trio. The next morning, the carbine was, according to Pancho's declaration, surrendered by him to Macario Awingan, a civilian ranger of Lonoy, San Gabriel, La Union.

Macario Awingan declared that on December 3, 1951, when he reputedly investigated Polindo Dacucus in Ayusip about the gun, the latter owned the same upon being confronted with it; that Polindo likewise admitted having given the gun to Pancho Angadol, instructing the latter that should there tie any inquiry about the same, to state that it was delivered to him since August of 1951; and that he confessed handing over the carbine to his co-accused with knowledge that it was to be used in the killing of the two deceased, Gabading and Bunagan. On this occasion, he added, a written statement was executed by Polindo (Exhibit E).

Pedro Gamlosen, a brother of the deceased Mariano Bunagan, testified that the accused Dacucus brothers tried to make repeated offers for an amicable settlement to which he initially refused but later acceded, leading to the execution of the "arreglo particular" (Exhibit 8), dated December 7, 1951, which, nevertheless was not finally consummated.

The accused-appellants not only denied the commission of the crime, but introduced evidence that on the night of the murder, they were elsewhere attending a wake or cañao that lasted the whole night, that about a month or so after the crime, some relatives of the deceased, specifically the prosecution witnesses Gamlosen and the two Angadols. (Venancio and Villano) and other companions, all fully armed, forcibly seized the appellants and, under threats of death, compelled them (the brothers Dacucus) to surrender two carabaos in settlement of the case, and to sign the "arreglo particular", Exhibit 8, and the admission, Exhibit E; and that when the brothers complained of the coercion and charged Gamlosen and the Angadols with illegal detention, the appellants were included in the murder charge that had been initially filed against Moquiadi and Bagulin exclusively.

Notwithstanding the opinion of the trial court, our scrutiny of the record shows inconsistencies that, in the evidence for the prosecution, cast a strong doubt upon the guilt of appellants.

It is peculiar and highly suspicious that, while Moquiadi and Bagulin were immediately accused, the appellant

brothers were not charged until September 2, 1952, about ten months after the murder, and seven months after they had" accused the witnesses for the prosecution Venancio Angadol, Villano Angadol and Pedro Gamlosen (brother of the deceased Mariano Bonagan), with illegal detention and with compelling them to enter into an "arreglo particular" to pay (or Eunagan's death. Barrio Lieutenant Evaristo Wacling actually saw the brothers Dacucus taken by the Angadols and Gamlosen, the latter being armed; and he so reported to the Chief of Police Cornelio Estero, who corroborated that fact. That the brothers Dacucus were pressured into surrendering their two carabaos to the relatives of the late Bunagan is admitted by Venancio Angadol himself, from whose possession the carabaos were taken by Constabulary Lieutenant Dumlao, when the owners (Dacucus) complained of their animals being forcibly taken from them; and by the fact that the certificates of ownership still remained in the name of appellants herein.

The "arreglo particular" itself signed by Dacucus and Gamlosen (Exhibit 8) and dated December 7, 1951, reveals nothing more than that Dacucus was suspected by the relatives of the deceased Bunagan, because' the admitted culprits Moquiadi and Bagulin happened to stop at his house after the murder; without any indication, however, that Dacucus received the killers with knowledge of the perpetration of the crime. Note should be taken of the fact that it was not until ten months afterwards that the brothers Dacucus were formally charged as co-principals in the crime.

As to the alleged eyewitness Wagsey Sayang-od, who claimed to have jumped from Bunagan's house, wrestled with Pedro Dacucus, and run away when Bunagan was killed, his presence at the murder scene was not confirmed. On the contrary, Inabuey Quindang, Bunagan's widow, stated under oath in her affidavit (Exhibit 16-A) that she and the deceased were alone in their house on the fatal evening. Moreover, Sayang-od admitted having returned to the house the next day, yet he failed to report the murder and four months after its commission, he kept silent. To cap it all, pages 85 and 104 of the transcript contain admission of this witness that he was at Bunagan's house "the night they say when Mariano Bunagan was shot" and that he returned the next day to the same place "because I was informed that Mariano Bunagan and Pedro Cabading were killed" These details render it dubious that Sayang-od really witnessed Bunagan's murder.

The trial court also relied on the written statement of Polindo Dacucus, Exhibit E, confessing that the murders were committed by Moquiadi, Bagulin and his brother Pedro Dacucus with the carbine, Exhibit C, which Polindo delivered to Pedro with full knowledge of the use to which the weapon would be put; and that on November 28, 1951, Polindo entrusted the weapon to Pancho Angadol for hiding. This confession (dated almost the same day as the "arreglo particular" Exhibit 8) "was not only attacked by the appellants as coerced, but two of the witnesses thereto declared that they signed it themselves through fear of the Angadols and of Gamlosen. Considering further that the ranger Macario Awingan, who prepared it, also drafted the "arreglo particular", Exhibit 8, on December 7, 1951, yet failed to disclose their contents to the Constabulary officers that investigated him in January, 1952, it readily appears that the said "confession" can not constitute adequate proof.

We further notice that in his original affidavit of December 3, 1951, Pancho Angadol made no mention of any admission by Polindo Dacucus that he had previous knowledge or participation in the killings. He admitted under cross-examination that he was prompted to alter his former version and testify against the Dacucus brothers because they had filed complaint for illegal detention against his father, Venancio Angadol, his uncle, Villano Angadol, and Pedro Gamlosen. And it is very likely that the same reason motivated the testimony of the latter against the herein accused.

All in all, even disregarding the evidence of alibi, the evidence of record strongly indicates that the appellants were included in the murder charge solely in retaliation for their having accused Gamlosen and the Angadols with illegal detention. It is apparent, moreover, that if the appellants were really guilty and had voluntarily come to

terms with the relatives of the victims, they would not have complained to the authorities of the loss of their carabaos, and, would have abstained from filing charges for illegal detention.

The case for illegal possession for firearms against Polindo Dacucus rests primarily on the testimony of Pancho Angadol, the written confession, Exhibit E, and the declarations of witness Pablo Dingcug. The first two are discredited by the circumstances adverted to in the discussion of the murder charge. As to the asseverations of Dingcug, we find it difficult to believe that persons meeting to plan the commission of murder would have the effrontery and carelessness of exhibiting the murder weapon to a total stranger. And since possession of the firearm is not duly established, that it was not licensed becomes irrelevant.

We find that the guilt of the appellants has not been proved beyond reasonable doubt as required by law.

Wherefore, the judgment of conviction is reversed and set aside, and the appellants Pedro and Polindo Dacucus are hereby acquitted, with costs de oficio.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera and Gutierrez David, JJ., concur.

Padilla, J., took no part.

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