

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMANDO IMPERIO AND EUGENIO IMPERIO, DEFENDANTS-APPELLANTS.*G.R. No. L-26194. March 29, 1972*

Ponente: MAKASIAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/58ba43f13d03/>**MAKASIAR, J.:**

Defendants-appellants Amando Imperio and Eugenio Imperio appealed (pp. 279, rec. of Crim. Case No. 7153) from a judgment on April 27, 1966 sentencing them for murder aggravated by three (3) circumstances to death and to indemnify the heirs of the victim Gregorio Naval in the amount of P6,000.00, with costs de oficio (pp. 247-275, rec. of Crim. Case No. 7153).

In 1962, defendants Amando Imperio and Eugenio Imperio, father and son, were residents of San Lorenzo, Gapan, Nueva Ecija. In March, 1962, Amando was 57; while his son Eugenio was 23 years of age. They are illiterate, although they can sign their names but with difficulty (t.s.n., Aug. 30, 1963, pp. 48-50; Feb. 20, 1964, pp. 1-2, 19; see Exhs. "A", "B" and "F", pp. 3,4,7, rec. of Crim. Case No. 7153).

The Imperios are natives of San Ildefonso, Bulacan (t.s.n., Dec. 18, 1962, p. 2; Aug. 30, 1963, p. 7; Feb. 20, 1964, p. 8; Sept. 30, 1964, p. 2). In August, 1961, upon invitation of a relative, Amando moved his family, including Eugenio, to San Lorenzo, Gapan, Nueva Ecija, while waiting to be settled in Dingalan, Quezon, where he was offered the job of overseer of a vegetable plantation (t.s.n., Dec. 18, 1962, pp. 2-3, 26-28; Aug. 30, 1963, pp. 6-7; Sept. 24, 1963, pp. 1-2). As a means of livelihood, Amando and his son Eugenio gathered grass for horse feed. They also worked as hired reapers and truck helpers (t.s.n., Dec. 18, 1962, pp. 2-3; Aug. 30, 1963, p. 8). Occasionally, they would be hired to help unload palay and tiki-tiki in the warehouse of one Dr. Borja located just across the street from their house at San Lorenzo, Gapan, Nueva Ecija, a distance of 12 to 16 meters (t.s.n., Dec. 18, 1962, pp. 28-30; Sept. 24, 1963, pp. 2-6; Feb. 20, 1964, p. 10). Overseer and guard in the aforementioned camarín was Gregorio Naval, likewise known as "Mang Godio," who as caretaker, usually slept in said camarín (t.s.n., May 7, 1962, p. 3; Aug. 30, 1963, p. 3; Sept. 24, 1963, p. 3).

In the morning of March 6, 1962, Gregorio Naval was found dead inside the warehouse. His body exhibited multiple stab wounds. The medical report (Exhs. "11" and "H-1") of Dr. Guillermo Ortiz, a Department of Health officer detailed in Gapan, Nueva Ecija, who examined the body of the deceased, contained the following findings:

"EXTERNAL FINDINGS:

- 1) Stab wound, substernal, anterior chest wall, 6 x 6 cm.;
- 2) Two stab wounds, chest wall, right axillary line, one above the other, 1 x 1 cm.;
- 3) Four superficial puncture, anterior abdominal wall;
- 4) Four stab wounds, right thigh, 1 x 1 cm.;
- 5) Four stab wounds, right leg, 1 x 1 cm.;

- 6) Superficial wound, right knee, 4 cm. in length;
- 7) Stab wound, back, right, 1 x 1 cm.;
- 8) Superficial puncture, left thigh, two in the anterior, and one at the posterior;
- 9) Stab wound, left forearm;
- 10) Multiple contusion, left knee;
- 11) Multiple contusion, left elbow;
- 12) Multiple contusion, left hand.

"Upon opening the abdomen there are plenty of blood and there is also stab wound of the liver.

"CAUSE OF DEATH:

Profuse hemorrhage, internal and external, due, to stab wound." (Pp. 7-a to 7-b, rec. of Crim. Case No. 7153).

A criminal complaint (Exh. "1") was filed against defendants on March 8, 1962, with the local Justice of the Peace Court. Accused waived their right to the second stage of the preliminary investigation and moved to have the case immediately transferred to the Court of First Instance (Exh "I"). On April 13, 1962, the Provincial Fiscal filed the corresponding criminal information against the accused (p. 12, rec. of Crim. Case No. 7153).

The version of the prosecution, based on the testimony of witnesses Jose Marcelo, Epifanio Reyes, Guillermo Ortiz, Alejandro Mallare, Manuel Reyes, and Dioscoro de Leon, is as follows:

At about 5:30 in the afternoon of March 5, 1962, Jose Marcelo, a camarin and ricemill owner in the same barrio of San Lorenzo and a long time and close friend of the deceased, having known each other for about 34 years, was in the camarin where the deceased worked as overseer and guard. When he arrived thereat, he saw both accused already there, engaged in a conversation with the deceased inside but near the door of the camarin. At about 7:00 in the evening he left said camarin, leaving the deceased with the two accused. That was the last time he saw the victim alive (t.s.n., May 7, 1962, pp. 2-8).

The following morning of March 6, 1962, between 7:30 and 8:00, Epifanio Reyes, then Chief of Police of Gapan, Nueva Ecija, upon being informed of Gregorio Naval's death, immediately proceeded to the camarin and conducted an investigation. He entered the camarin through the back door which was open with its padlock missing. Said door gave no traces of having been forcibly opened and all indications showed the same to have been opened by a key. Inside the camarin, he found the victim lying on the concrete floor just beside a bamboo bed face up, with both arms and legs bent forward. Said bamboo bed appeared to have been used, but a pillow together with a properly folded blanket appeared to be in order. By the side of the corpse was a small table, a chair, and a gas lamp which was still lighted, all of which were in their respective places and in proper order. Two pieces of wood, however, appeared to have been detached from the wall near the victim's body. There were no bloodstains on the bed but there were some on the cement floor (t.s.n., May 7, 1962, pp. 10-16).

Police lieutenant Alejandro Mallare also arrived at the scene of the crime and ordered pictures taken of the victim (Exhs. "G", "G-2", and "G-3"; t.s.n., June 18, 1962, pp. 10-11).

On the basis of information that the two defendants were the last persons seen with the victim, police chief Epifanio Reyes had accused Amando and Eugenio Imperio fetched from their house to his office between 2 and 3 o'clock in the afternoon of the same day (March 6, 1962). After a short verbal interrogation, the accused were sent home. Chief Reyes then ordered police lieutenant Alejandro Mallare to conduct a background check on accused

Amando Imperio. At about 12 o'clock in the evening that same day, police lieutenant Mallare reported to police chief Reyes, that, according to a relative of Amando Imperio, there was really jealousy on the part of Amando Imperio for his wife had illicit relation with Gregorio Naval, and that Amando is an ex-Huk (t.s.n., May 7, 1962, pp. 17-19, 22-23, 49-51; June 18, 1962; pp. 10-12; Aug. 30, 1962, pp. 2-4, 6-9, 13-14, 16).

In the morning of the following day, March 7, 1962, police chief Reyes ordered his policemen to fetch anew the defendants, who had allegedly gone to the fields to gather grass. About 7 o'clock that evening, accused Amando Imperio was picked up, brought to the office of the Chief of Police, and there formally investigated by police lieutenant Mallare and policemen Artemio del Rosario and Conrado Barlis. Between 11 and 12 o'clock that same night, a policeman informed police chief Reyes, then asleep in his house, that accused Amando Imperio had confessed his guilt. Chief of police Reyes then proceeded to the municipal building to verify the report, asked Amando Imperio whether it was true, and said accused answered in the affirmative. After said accused expressed his willingness to put the confession in writing, the affidavit in question-and-answer form, now marked as Exhibit "A", was prepared. It was thereafter signed by accused Amando Imperio, and at around past 12 o'clock midnight, accused Amando was brought to then Justice of the Peace Manuel Reyes before whom said affidavit was sworn to (t.s.n., May 7, 1962, pp. 23-27, 56-60; June 18, 1962, pp. 13-15).

Said affidavit recites that accused Amando and Eugenio Imperio intentionally let themselves be locked inside the camarin when the victim closed its doors at around 7 o'clock in the evening of March 5, 1962; that inside the camarin, accused lay atop a pile of palay sacks until 11 o'clock that night; that at about 11 o'clock, Amando woke up his son Eugenio, and armed with a bolo and a dagger, respectively, they went inside the victim's room; that the victim was then lying on his bed reading; that when the victim saw the accused approaching, he got up from the bed; that Amando then pushed the victim down to the floor; that Amando then sat on the victim's stomach and gagged him with a piece of sack cloth; that Eugenio then started to stab the victim lightly in the different parts of the body; that afterwards Amando stabbed the victim in the stomach with the bolo; that after the victim died, both accused left the camarin through the back door and proceeded home; that they killed Gregorio Naval because accused Amando Imperio, on two previous occasions, had seen his wife with the victim inside the camarin; that before accused left the camarin, Amando took the victim's wallet, and detached two pieces of wood from the wall near the victim's body to make it appear that robbery was the motive behind the killing; that said wallet contained P30.00; that Amando left his bolo atop a palay bin near the back door of the camarin; and that Amando hid his blood-stained clothes inside the toilet of his house (Exh. "A", p. 3, rec. of Crim. Case No. 7153).

Before accused Amando Imperio swore to his affidavit, he was asked by the Justice of the Peace to narrate the contents of said affidavit to find out whether he understood its contents. Accused did as instructed, and as part of his narration, stated that he threw the weapon used in killing the victim, a sort of a pointed bolo, in one of the corners of the camarin. Justice of the Peace Manuel Reyes then asked the accused whether he was willing to swear to his affidavit, and the accused answered in the affirmative (t.s.n., May 7, 1962, pp. 26-28; Aug. 30, 1962, pp. 22-26).

Police lieutenant Alejandro Mallare, police chief Epifanio Reyes, together with some other members of the police force of Gapan, with the accused Amando, then proceeded to the scene of the crime, made a search of the same and of the house of the accused for the death weapons. Said search yielded a bolo (Exh. "C") found in the house of the accused under a bamboo bed inside a box wrapped with a sack by police chief Reyes in the presence of accused Amando Imperio and one Arsenio Salvador; a dagger (Exh. "D") and a scabbard (Exh. "D-1") recovered by police lieutenant Mallare, also inside the house of the accused; and a flashlight (Exh. "E") found inside the camarin as pointed to by accused Amando Imperio. Both the bolo and the dagger showed spots that looked like bloodstains (t.s.n., May 7, 1962, pp. 34-38; June 28, 1962, pp. 22-25).

Another statement was made and signed by accused Amando Imperio regarding the recovery of the weapon used and the identity of said weapon (Exh. "B"; t.s.n., May 7, 1962, pp. 31-38). In said statement, accused Amando Imperio identified the bolo as the weapon he used in killing the victim.

Accused Eugenio Imperio was apprehended at around 2:30 in the morning of March 8, 1962, at sitio Ginandusan, five kilometers away from poblacion of Gapan (t.s.n., May 7, 1962, pp. 28-29, 65; Aug. 30, 1962, p. 10). Said accused was thereafter formally investigated by police chief Reyes and the interrogation was likewise in question-and-answer form, reduced into writing, and now marked Exhibit "F" for the prosecution (Exh. "F", p. 7, rec. of Crim, Case No. 7153). Said statement was later subscribed and sworn to before Dioscoro de Leon, then Municipal Mayor of Gapan (t.s.n., May 7, 1962, pp. 38-40, 64-66; Oct. 16, 1962, pp. 1-8). Said affidavit corroborated every important detail of the perpetration of the crime contained in accused Amando Imperio's sworn statement. In his affidavit, accused Eugenio Imperio further identified a dagger as the weapon he used in stabbing the victim. Said statement also reveals that at the time of the execution thereof, accused Eugenio Imperio still had on the same clothes he was wearing when the crime was committed.

It was on March 10, 1962 when accused Amando Imperio swore to his second statement Exhibit "B" regarding the recovery and identity of the bolo. Before Justice of the Peace Manuel Reyes, said accused again identified said weapon, Exhibit "C". The Justice of the Peace further asked the accused as to the motive of the killing, and accused answered that that afternoon of March 5, 1962 was the third time he saw the deceased with his wife — "Ang asawa ko ay ginagalaw niya" (t.s.n., August 30, 1962, pp. 26-23).

Dr. Guillermo Ortiz testified that Gregorio Naval could have died about seven (7) to ten (10) hours prior to the autopsy, which was performed between 9 and 10 o'clock in the morning of March 6, 1962; that the victim's death was due to shock and profuse internal and external hemorrhage; and that the bolo (Exhibit "C") and the dagger (Exhibit "D") could have caused any of the wounds sustained by the victim (t.s.n., June 18, 1962, pp. 5-8).

I

There are circumstances which cast grave doubt on the guilt of the accused.

(1) There is a substantial contradiction between the alleged confession of accused Amando Imperio (Exhibit "A") and the testimony of prosecution witnesses as to where the bolo (Exhibit "C") was left or hidden after the commission of the crime. Thus, while the prosecution witnesses stated that the bob was recovered in the house of the accused under a bamboo bed inside a box wrapped with a sack; accused Amando Imperio declared in his alleged first affidavit that he left said weapon atop a palay bin near the back door of the camarin on their way out after the crime was committed (Exhibit "A"), and when asked by the justice of the peace, he allegedly replied that he threw the weapon in a corner of the warehouse (pp. 26-28, t.s.n., of May 7, 1962; pp. 22-26, t.s.n., of Aug. 30, 1962). The defendants denied owning said bolo and dagger.

(2) According to accused Amando Imperio's alleged confession (Exhibit "A"), he hid his bloodstained bluish or grayish working clothes in the toilet of their house. There is no showing, however, that a search was undertaken to recover said clothes or if such were recovered, why said garments were not presented in court or subjected to a laboratory or chemical test to determine whether the stains thereon were blood of the victim or not, or whether they were human blood or blood of any other mammal, like fish, fowl, pig, goat, or dog, or just vegetable or betel nut stains. They could have compared the same with the bloodstains on the cement floor of the camarin, which definitely came from the victim.

(3) It appears from accused Eugenio Imperio's alleged confession (Exhibit "F") that at the time of the execution thereof on March 8, 1962, said accused still had on the same bluish or grayish clothing he was wearing when the

crime was committed. However, the prosecution failed to present said clothing in court. There is no showing, therefore, as to whether his clothes had bloodstains or not. Definitely, said clothes were not subjected to a bloodstain test.

(4) According to the evidence for the prosecution, both the bolo (Exhibit "C") and the dagger (Exhibit "D"), at the time of recovery, showed spots similar to bloodstains. Said weapons, however, were not subjected to any laboratory test to determine whether said stains were blood of a man or of animals or just plant, fruit or vegetable stains. Such test could have been undertaken by the municipal or district health office or by any private clinic in the locality or even by the National Bureau of Investigation upon request.

(5) The subject bolo (Exhibit "C"), according to the testimony of prosecution witness Manuel Reyes, justice of the peace of Gapan (t.s.n., Aug. 30, 1962, pp. 26-31), bore the letters "M Y" on its blade, obviously not the initials of accused Amando Imperio or accused Eugenio Imperio. No explanation was presented regarding said initials.

(6) The prosecution presented as Exhibit "E", a flashlight. However, its relevance to the case has not been shown by the prosecution. Said flashlight, according to the testimony of prosecution witness Epifanio Reyes, chief of police of Gapan, was recovered inside the camarin. This same witness further stated that this flashlight Exhibit "E" is the same flashlight mentioned in accused Amando Imperio's alleged statement Exhibit "B" (t.s.n., May 7, 1962, pp. 37-38). However, Exhibit "B" does not mention whatsoever any flashlight. The alleged confessions of the two accused, Exhibits "A" and "F", do not make any reference to any flashlight, either.

(7) The prosecution failed to prove by credible evidence the alleged motive behind the crime, i.e., jealousy on the part of accused Amando Imperio arising from victim's alleged illicit relationship with the former's wife, who denied committing such immorality. The evidence of the prosecution on this point is purely hearsay, consisting of statements allegedly made to police lieutenant Mallare by one Amando Pangilinan and one Balmero, alleged relatives of accused Amando Imperio who were not presented to testify on said alleged illicit relationship, which Amando also denied (t.s.n., Aug. 30, 1962, pp. 6-9).

(8) In connection with the victim's alleged illicit relationship with Amando's wife, a consideration of their ages and physical features becomes material to determine its probability. The records show that Primitiva Bonifacio, Amando's wife, was, at the time of the commission of the crime, 45 years of age. There is no showing, however, as to how old the victim was at the time (the necropsy report, Exhibit "H", only states that the victim was "of legal age"). Pictures of the victim (Exhibits "G", "G-1"), however, show that the victim appears to be very thin and an old man, possibly older than accused Amando Imperio. These circumstances may tend to negate the veracity of the alleged illicit relationship and to insinuate that it was just too pat a concoction of the police to merit belief.

(9) The alleged confessions (Exhibits "A" and "F") reveal that on two occasions before the incident, accused Amando Imperio saw his wife enter the camarin and the victim closed its doors after her entry. Other evidence for the prosecution tends to show that on the afternoon of March 5, 1962, this happened again. Exhibit "F" further indicates that accused Amando Imperio is the jealous type. Assuming all these to be true, a question arises: Why did not Amando, on any of these three occasions, follow his wife to the camarin to really see whether anything immoral was going on and confront either the victim or his wife about it? Furthermore, using the premises aforesaid, and considering that the victim is married (Exhibit "H"), the kins of the victim's wife could have the same motive to commit the crime. There is no showing, however, that they were ever investigated.

(10) The police authorities did not investigate the victim's dealings with other people, especially Jose Marcelo, Conrado Marcelo, and the defendants' own kinsmen - Amando Pangilinan and one Balmero — who allegedly disclosed the jealousy angle. There might have been persons, who may have grudges against the victim and motives as well as opportunity to commit the crime.

(11) A scrutiny of the alleged confessions (Exhibits "A" and "F") would reveal that both were identically drafted, the only difference being that Amando's alleged confession has an addendum, consisting of additional questions and answers. This circumstance neutralizes the voluntary character of the alleged confessions.

(12) The warehouse where the victim worked as overseer and guard is located across the street from the house where the two accused reside, a distance of 12 to 16 meters. There could be other houses nearer the camarin than that of Amando's. As a matter of fact, the house of one Conrado Marcelo appears to be nearer, if not nearest, the camarin; because in his affidavit (p. 16, rec. of Crim. Case No. 7153), he stated that at about 11 o'clock in the evening of March 5, 1962, he was awakened by groans of a human being. The camarin and house of 64 year-old (p. 2, t.s.n. of May 7, 1962) state witness Jose Marcelo are respectively 25 meters and 50 meters from the crime scene (p. 6, t.s.n., May 7, 1962). The occupants of the houses near the camarin, specially Conrado Marcelo, should have been interrogated extensively as anyone of them had equal, if not better, opportunity to commit the crime.

(13) Prosecution witness Jose Marcelo testified that when he arrived at the warehouse at about 5:30 in the afternoon of March 5, 1962, he already saw the accused together with the victim in the camarin, and when he left subsequently at around 7 o'clock in the evening, the two accused were still there. A reading of both alleged confessions (Exhibits "A" and "F") reveals that soon after Jose Marcelo left, both appellants hid themselves behind sacks of rice unnoticed by the deceased when the latter closed the camarin around 7 o'clock that evening.

It is hard to imagine how the accused were able to stay inside the camarin and let themselves be locked in without the victim knowing about their presence, since during all the preceding time, they were conversing with the victim inside, and near the door of, the camarin, as testified to by prosecution witness Jose Marcelo. Both accused, whose house is but 12 to 16 meters away from the camarin, would not risk suspicion by not going home to eat supper, knowing that they would surely be missed at home.

(14) There are disturbing inconsistencies in the testimonies of prosecution witnesses:

(a) According to police chief Epifanio Reyes, Exhibit "F" was signed by Eugenio in his presence, after the investigation conducted by him and his police lieutenant; but he was not present when Exhibit "F" was sworn to before the municipal mayor of Gapan (t.s.n., May 7, 1962, pp. 38, 40, 63, 66, 68). On the other hand, Mayor Dioscoro de Leon testified that Exhibit "F" was signed in his presence (t.s.n., Oct. 16, 1962, p. 2).

(b) Chief of police Epifanio Reyes testified (t.s.n., May 7, 1962, pp. 38-39) that he and police lieutenant Mallare were the ones who investigated Eugenio resulting in Eugenio's confession, Exhibit "F". This is contradicted by police lieutenant Mallare, who testified that he was not present when said Exhibit "F" was prepared, executed, and signed (t.s.n., June 28, 1962, p. 19).

(c) According to police chief Reyes, the alleged confession of Amando Imperio (Exhibit "A") was prepared only after he returned to the municipal building between 11:00 P.M. and 12 o'clock midnight of March 7, 1962 (t.s.n., May 7, 1962, pp. 56-58; June 5, 1962, pp. 19-21). This testimony collides head-on with the subsequent statement of lieutenant Mallare, who declared that Exhibit "A" was already finished when police chief Reyes arrived at the municipal building (t.s.n., June 28, 1962, pp. 11-12; Aug. 30, 1962, pp. 16-19).

(d) According to the testimony of police chief Reyes, Exhibit "A" was prepared only after he arrived at the municipal building at around midnight of March 7, 1962, and it was signed only during that time (t.s.n., May 7, 1962, pp. 58-60). However, lieutenant Mallare testified that when Exhibit "A" was prepared and then signed by Amando Imperio only himself and police clerk Conrado Barlis were present (t.s.n., June 28, 1962, pp. 13-14).

II

At the trial, both accused, vehemently denied having killed the deceased or being ex-Huks, totally disowned any voluntary participation in the taking of their respective statements, alleging that they did not know the contents of the statements the police authorities forced them to sign. They claimed that they did not swear to the same before the municipal judge or the municipal mayor. The two accused testified as follows:

In the afternoon of March 5, 1962, Amando and Eugenio Imperio were asked by Gregorio Naval to carry sacks of palay into the warehouse. Father and son did their work in the premises of the warehouse from 3 to 4 o'clock that afternoon, after which they left said camarin (t.s.n., Aug. 30, 1963, pp. 2-3; Feb. 20, 1964, pp. 8-9). They spent the evening of March 5, 1962 at home and retired to sleep as early as 7 o'clock t.s.n., Dec. 18, 1962, pp. 3-6; Aug. 30, 1963, p. 8; Feb. 20, 1964, pp. 10, 28).

Early in the morning of March 6, 1962, the Imperios awakened to find many people gathered near the warehouse of Dr. Borja. Upon inquiry, Amando and Eugenio were told that Gregorio Naval, keeper of the warehouse, had been found dead inside the warehouse. Father and son returned to their house. Amando chopped some wood, after which, accused father and son ate their breakfast and rested (t.s.n., Aug. 30, 1963, pp. 9-11; Feb. 20, 1964, pp. 10-11). Soon thereafter, at around 8 o'clock that morning, two policemen of Gapan arrived and took the accused to the house of barrio lieutenant Simplicio Marcelo, son of Jose Marcelo, where they were asked whether they knew about or had anything to do with the incident. The accused replied in the negative; they were thereafter told to go home (t.s.n., Aug. 30, 1963, pp. 11-13; Feb. 20, 1964, pp. 11-12).

At around 2 o'clock in the afternoon of that same day, March 6, 1962, two policemen came again for the accused and took them to the municipal building of Gapan before chief of police Epifanio Reyes. Chief Reyes asked the accused whether they knew anything about the incident, to which the accused again answered in the negative. Both accused were then ordered to strip, and their bodies were inspected. After the inspection, the accused were told to dress up and go home (t.s.n., Aug. 30, 1963, pp. 13-17; Feb. 20, 1964, pp. 12-14).

In the morning of March 7, 1962, accused Amando and Eugenio Imperio went out to barrio Punlot, about one kilometer away from their house, to cut talahib. They left Punlot at about 4 o'clock in the afternoon. Amando left his son Eugenio behind in the house of his son-in-law at barrio Punlot, while he proceeded home alone (t.s.n., Aug. 30, 1963, pp. 18-20; Feb. 20, 1964, pp. 14-15).

On his way home, at the railroad crossing at Gapan about 400 meters from his house, at about 6 o'clock that evening of March 7, 1962, accused Amando Imperio was met by the sergeant of police of Gapan, who was accompanied at the time by his cousin Nardo and his acquaintance Maning. The sergeant approached him, placed his arm around his shoulder and brought him to the then deserted railroad station about 150 meters from his house; while Nardo and Maning were left about 30 meters behind. Inside the railroad station, the police sergeant, whose name he does not know, insisted on asking Amando whether he knew anything about the death of Naval. The sergeant poked his gun many times at Amando's stomach and tried to force him to admit participation in the crime. All this time, Nardo and Maning did not do nor say anything. Afterwards, chief of police Reyes and police lieutenant Mallare, together with about six (6) policemen, arrived in two jeeps. Chief of police Reyes asked Amando to ride with them, but Amando said he would like to go home first. Chief Reyes asked him again, and when Amando insisted on going home first, chief Reyes held him by the armpit while lieutenant Mallare held his two feet and threw him inside the jeep where he fell upon a shovel and a pick. He was then brought to the cemetery of Gapan, leaving behind Nardo and Maning. En route, a policeman kept Amando's head down by pressing the latter's nape (t.s.n., Aug. 30, 1963, pp. 20-33).

Inside the desolate cemetery of Gapan, which is far from the railway station, chief Reyes and the other policemen

alighted. Chief Reyes told three of the policemen to go around the walls surrounding the cemetery; afterwards, the three came back and the chief asked them whether they had seen anything, to which they answered in the negative. After that, chief Reyes and lieutenant Mallare told Amando to go down the jeep, and when he refused, the two police officers held him and dumped him into the niche. Amando was again asked whether he had anything to do with the death of Naval and again Amando answered in the negative. Amando was then ordered to kneel and asked whether he knows how to pray. Police chief Reyes and police lieutenant Mallare poked their guns at accused's abdomen while the latter was leaning against a niche. Afterwards, accused was told to ride again in the jeep. When he complained that he could not board the jeep because his sides were aching, accused Amando was again held by his armpits and feet, thrown inside the jeep and then brought to barrio Pinagbakalan, about six kilometers from the cemetery of Gapan (t.s.n., Aug. 30, 1963, pp. 33-39).

At barrio Pinagbakalan, at around midnight, accused Amando Imperio was taken to a very dark and isolated place near a mountain, between two creeks (t.s.n., Aug. 30, 1963, pp. 54-55). After they had alighted, chief Reyes handed the accused a pick and ordered him to dig; but accused told chief Reyes that he could not because his sides and abdomen were aching. Chief Reyes gave the pick to two policemen who were the ones who dug. When the hole was about waist-high, Amando was told to stand up and then hogtied. He was told to tell the truth or else it would be his end. When the accused answered that he could not say anything because he really did not know anything about it, he was kicked in the stomach, causing him to fall backward beside the hole. Then, in that position, a piece of wood was placed in his mouth to keep it open, water was drawn from a nearby creek in a can formerly used to contain lard, and the water poured into his mouth. Afterwards, he was given blows in the abdomen by police chief Reyes, police lieutenant Mallare, and another policeman. A bottle of gin was then produced, and chief Reyes emptied one-half of its contents into the mouth of Amando, who was again given blows to his stomach. When he still refused to confess, liquor was poured into his nostrils. He was then laid down and given blows in the stomach. Afterwards, with a pick placed against his stomach, chief Reyes asked him to sign a piece of paper, the contents of which were not read to him. With the aid of a flashlight and guided by a policeman who held his hand, he signed the paper on top of the hood of the jeep (t.s.n., Aug. 30, 1963, pp. 38-50).

Afterwards, they all rode in two jeeps and accused Amando Imperio was brought to Gapan. On the way, accused was asked where his son was, and he told them that Eugenio was in the house of his son-in-law at barrio Punlot. The chief of police did not believe him; instead they went to his house at San Lorenzo, Gapan. The police authorities looked all around the house for Eugenio, but the latter was not there. His wife saw Amando with a swollen face, trembling and being supported by two policemen as he could hardly walk (p. 17, t.s.n. of Dec. 18, 1962). His wife asked him where they came from and he replied, "Can't you see I was being taken by these policemen." They then proceeded to the house of Amando's son-in-law at barrio Punlot (t.s.n., Aug. 30, 1963, pp. 50-53).

At barrio Punlot, they parked the jeeps about 100 meters away from the house of Amando's son-in-law, after which they all alighted and proceeded towards the house. Amando was then told to awaken his son by calling him from outside. Roused from sleep by his father's voice, Eugenio came out. Police chief Reyes and police lieutenant Mallare held Eugenio and took him to the irrigation canal, about 100 meters away from the house. Upon reaching the irrigation canal, Eugenio was given fist blows in the stomach. Eugenio fainted when given a kick below the waist. When he came to, he was held by the arms and feet, laid down, and an undershirt was tied around his mouth. A policeman then sat on him while police chief Reyes ordered that a can of water be fetched from the irrigation canal. Water was taken in a lard can and poured into Eugenio's mouth. He was then told to stand up and admit having killed Gregorio Naval. When Eugenio refused, he was boxed several times on the stomach and on his sides. He was again told to confess to having killed Gregorio Naval. When he refused, he was held by the arms and feet and his shirt was removed by police lieutenant Mallare. Eugenio was then submerged from head to chest

in the water of the irrigation canal by police chief Reyes and several policemen. Amando pleaded with his son to do whatever the policemen demanded against his will. Eugenio was further warned that if he would not sign the document, he would be killed. Eugenio finally gave in and signed a document on top of a jeep hood with the aid of a flashlight, without the contents of the document being read to him. Both accused were then brought to the municipal building of Gapan, Nueva Ecija and placed inside the municipal jail (t.s.n., Sept. 10, 1963, pp. 1-6; Feb. 24, 1964, pp. 15-21).

About midnight of March 8, 1962, Eugenio was brought out of jail by police chief Reyes and some policemen and taken outside the municipal building. He was given several blows by chief Reyes, lieutenant Mallare, and the sergeant of police. Then he was ordered to run while the policemen all cocked their guns. At this point, Eugenio embraced the sergeant of police. He was again boxed several times and then taken back to jail. Afterwards, Amando was taken out of the cell by the chief of police and several policemen, who slapped him several times. Amando was then ordered to, and did, sign a document (t.s.n., Sept. 10, 1963, pp. 8-13; Feb. 20, 1964, pp. 22-25).

About March 10 and 11, 1962 when Atty. Villafuerte and ex-Congressman Escarcel respectively visited him in the Gapan jail, he told them of their torture and they called a doctor when they were transferred to the provincial jail three days later.

The maltreatment suffered by the accused at the hands of the police authorities is supported by the findings of Dr. Ceferino Cunanan, Medico-Legal Officer of the National Bureau of Investigation, who physically examined both accused on March 24, 1962 at the office of the provincial warden in Cabanatuan City. Said findings are contained in Living Case Report MO-62-3 as regards accused Amando Imperio (Exhibit "11") and Living Case Report MO-62-4 as regards accused Eugenio Imperio (Exhibit "12"), thus:

"PHYSICAL INJURIES: — Abrasion, healed, multiple, whitish ranging in sizes from pin-head to 0.4 x 0.3 cm. of various shapes, located and distributed at the back, right side, extending from the shoulder, right, to the infrascapular region, right, and from the scapular line medially up to the postero-medial portion of the proximal half, arm, right, occupying an area of 25.0 x 16.0 cms., fairly smooth, edges of which are clearly defined by pigmentations of the normal skin.

"CONCLUSIONS: — Signs of previous physical injuries noted consistent with the alleged date of commission on March 6, 1962." (Exh. "11", p. 6, rec. of exhs.).

"PHYSICAL INJURIES: — Scar, light brown, elliptical, 3.3 x 1.0 cms. located at the posterior aspect, distal third, arm, right, fairly smooth, edges of which are markedly pigmented followed by an area of lighter color, then a linear pigmentation, and finally another area of lighter color with points of pigmentation at the infero-medial portion.

"CONCLUSIONS: — Healed injury in the form of scar noted consistent with the alleged date of commission on March 6, 1962." (Exh. "12", p. 7, rec. of exhs.).

Dr. Cunanan testified that he could not say the definite time or date when the injuries were inflicted on the persons of the accused, but it could be within one to two weeks before the examination, and possibly on the 8th or 10th of March, 1962 (t.s.n., Oct. 29, 1964, pp. 3, 7, 9).

Dr. Deifin Medina, a junior medical officer of the District Health Office of Nueva Ecija, who examined both accused earlier on March 16, 1962, also found abrasions on the person of accused Amando Imperio (see Exh. "6"). His examination of accused Eugenio Imperio revealed no external physical signs of injury (see Exh. "6-a"). This latter finding, however, is contradicted by the subsequent findings of Dr. Ceferino Cunanan on the person of accused Eugenio Imperio as aforesated.

Even the admission of police chief Reyes and police lieutenant Mallare that accused Amando was interrogated for about four (4) hours from 7:00 P.M. to 11:00 P.M. suggests third-degree. Amando, who must have been very tired after cutting grass all day without supper (p. 12, t.s.n. of Dec. 18, 1962), was subjected to such an exhausting investigation without let-up until he finally confessed allegedly.

III

The fact that the police authorities of Gapan denied the accused communication with relatives and friends, apparently to hide the injuries suffered by the accused, further bolsters the narration of both accused.

(1) On March 8, 1962, Primitiva went to the municipal building to bring food to her husband Amando. At first the guard refused to allow her to see him; after pleading with the guard, she was allowed to peep into the jail and saw Amando resting along the wall and Eugenio lying down. On March 9, 1962, Amando was able to tell his wife, who was about six (6) meters away as she was forbidden to approach him, to call a doctor and a lawyer. The policeman guarding the accused saw when Amando was able to do, and furious at what transpired, dragged Primitiva out of the premises. She was not able to call a doctor for she was afraid of the policeman (t.s.n., Dec. 18, 1962, pp. 17-20; Sept. 10, 1963, pp. 13-14; Feb. 20, 1964, pp. 21- 22).

(2) On March 9, 1962, Mateo Castro a townmate of the two accused in San Ildefonso, Bulacan, and in 1962, a corporal in the police force of San Leonardo, Nueva Ecija, tried to see the accused in the municipal building of Gapan. Chief of police Epifanio Reyes forbade him from doing so. Later, Castro again attempted to see the accused, but was likewise refused (t.s.n., Jan 14, 1965, pp. 2-5).

(3) Andres Imperio, brother of Amando, also tried to see the accused father and son during their confinement in Gapan. Andres Imperio was at the time a resident of San Ildefonso, Bulacan. The first time Andres Imperio went to Gapan, he was with a group that included chief of police Jose Samaniego of San Ildefonso. Despite his company, and a request made to police chief Reyes by police chief Jose Samaniego of San Ildefonso, they were not allowed to see the accused. Subsequently, Andres Imperio journeyed again to Gapan to see his brother and nephew, with a group which included Mayor Violago of San Ildefonso, Bulacan. He was once again denied the opportunity of seeing the accused by chief Reyes. Andres Imperio made a third trip to Gapan, this time with Atty. Eduardo Villafuerte. Andres was still barred from seeing the accused. Atty. Villafuerte was allowed to do so, but he was not able to talk privately with the accused, as a police officer would not leave him alone with the accused inside the cell and guided the accused while latter was talking with him. He thought it the better part of valor not to object then to the actuations of the police officer nor to complain to his superiors (t.s.n., July 16, 1964, pp. 1-4, 20; Sept. 30, 1964, pp. 11-15).

(4) Police chief Reyes practically admitted that both defendants were not allowed to confer with their relatives, friends and lawyer, when he testified that the two accused were held incommunicado (pp. 34, 36, t.s.n. of June 5, 1962).

IV

That herein appellants could have been the victims of a frame-up, is further shown by the nasty and incomprehensive investigation conducted by the police authorities of Gapan, limited as the two-day investigation was to the two accused. After two days, they believed they solved the crime, without exploring all possibilities. Thus, after the investigation of accused Armando Imperio by several police officers from 7 to 11 o'clock in the evening of March 7, 1962, police chief, Reyes, who was roused from sleep in his house, immediately proceeded to the municipal building, after which the alleged statement of Amando was executed, and at past twelve midnight, said accused was brought before justice of the peace Manuel Reyes to swear to his alleged affidavit.

Accused Eugenio Imperio was likewise immediately investigated after his alleged arrest at around 2:30 in the morning of March 8, 1962, and his alleged statement taken, after which he was brought before Mayor Dioscoro de Leon to swear to the same. The actuations of the police officers reveal their lack of initiative, industry and resourcefulness.

All the foregoing circumstances do not warrant the conviction of both appellants, whose culpability has not been demonstrated beyond legal and moral certainty.

The National Bureau of Investigation should inquire into the actuations in this case of the Gapan police officers aforementioned, and to take the necessary steps to prosecute them under the pertinent laws, if justified by the evidence, as well as to conduct again an independent thorough inquiry into the death of Gregorio Naval to ferret out the real culprit or culprits.

WHEREFORE , the judgment of the trial court is hereby reversed, appellants AMANDO IMPERIO and EUGENIO IMPERIO are acquitted and their immediate release is hereby ordered, with costs de oficio.

Let a copy of this decision be furnished the Director of the National Bureau of Investigation and the Secretary of Justice for appropriate action.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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