

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
SANTIAGO BRIZ, ET AL., DEFENDANTS; EUSEBIO HERNANDEZ,
DEFENDANT AND APPELLANT.**

G. R. No. L-11063. August 22, 1958

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Santiago Briz, Ricardo Reyes, Marciano Bondad, and Eusebio Hernandez were jointly accused of murder in the Court of First Instance of Laguna for the death of Toribio Sungcaya. After trial, the lower court absolved Santiago Briz and Marciano Bondad for insufficiency of evidence but found guilty Ricardo Reyes and Eusebio Hernandez and sentenced each of them to life imprisonment, to jointly and severally indemnify the heirs of the deceased in the sum of P6,000, and to pay proportionately the costs. From this decision, only Eusebio Hernandez has appealed.

In the afternoon of April 13, 1955, at about five o'clock, Doroteo Escueta and Eleuterio Victoria, the first riding on a carabao and the second on a cew, took their animals to a drinking place near the Apasan bridge, Calauan, Laguna. They met Ricardo Reyes and Eusebio Hernandez, who were both armed, standing at the end of the bridge while at a short distance from them was another group composed of Marciano Bondad, Santiago Briz and Gregorio Anciado, who were also armed. Ricardo Reyes inquired from them where they could find Toribio Sungcaya to which they answered that they did not know.

At about six to six-thirty o'clock of the same afternoon, another group composed of Ambrocio Sungcaya, Modesto Escueta, Doroteo Vergara, Daniel Onate, Felix Onate and Anacleto Decano left barrio Apasan to serenade somewhere in Alaminos and while walking on a single file, they heard the detonation of three or four shots of a firearm. They proceeded on their way and while approaching the Apasan bridge, they met Ricardo Reyes, Marciano Bondad, Eusebio Hernandez, Gregorio Anciado and Santiago Briz, who were all armed, coming from the opposite direction and walking at a brisk pace. And upon reaching the bridge they came upon the lifeless body of a person lying prostrate on the ground face up who turned out to be Toribio Sungcaya. Two of the serenaders went to the municipal building of Calauan to report the matter to the police authorities while the rest returned to barrio Apasan to notify the relatives of the deceased, and at about half an hour later, the authorities and the relatives repaired to the place of the gruesome discovery. The corpse was taken to the municipal building of Alaminos and after an autopsy performed by a municipal health officer, it was transferred to the family residence. The autopsy shows that the deceased sustained four mortal gunshot wounds which caused instantaneous death due to profuse hemorrhage.

It appears that prior to the incident one Manuel Libang complained to the chief of police of Alaminos that he lost his carabao. The chief of police asked the deceased who was then the barrio lieutenant of Apasan to help in locating the whereabouts of the animal. Because of his efforts the four accused herein were apprehended and charged with stealing the animal and this intervention was resented by them. Appellant admitted that were it not

for the deceased, he would not have been dragged into the case.

Appellant set up alibi as a defense. He claims that between five to seven o'clock in the evening of the day the lifeless body was found near Apasan bridge, he went to the house of one Tranquilino Ulan in barrio Linao to see a carpenter, Anacleto de Cano, who was working thereat, for the purpose of having him measure the window of his house so that he could purchase the frame of the window from San Pablo City; that he stayed there up to 7:00 o'clock in the evening when he returned home; that later he heard the news of the death of Toribio Sungcaya; that he joined the relatives of the deceased when they proceeded to the place where his body was found and he even accompanied them in taking the corpse to the municipal building of Alaminos and later to their residence in barrio Apasan. His testimony was corroborated by Anacleto de Cano and Daniel Belga.

There is no dispute that Toribio Sungcaya died in the evening in question as a result of gunshot wounds inflicted on his body, and there can be no question that among those who participated in the killing are appellant and Ricardo Reyes who, while no one actually saw the shooting or aggression, were however identified by eyewitnesses as among those who were seen going towards the Apasan bridge minutes before the detonation of the shots was heard and left the place thereafter in a hurry as though fleeing from an onward happening. Moreover, the evidence shows that after appellant's apprehension, he and his co-accused Ricardo Reyes were investigated by the police authorities and in the course of the investigation they subscribed to written statements wherein they admitted that the deceased was killed by a group of persons including themselves and that the motive of the killing was that they suspected that the deceased reported to the authorities that they were the ones who were responsible for the loss of the carabao of one Manuel Libang; that in the afternoon of April 13, 1955 they went to Apasan bridge and waited for the deceased; and that at about 7:00 o'clock in the evening, while the deceased was on the bridge on his way home, he was fired upon twice by Ricardo Reyes and his companions. There can therefore be no doubt that appellant is one of those who took part in the shooting of the deceased.

His defense of alibi cannot be sustained. In the first place, if his only purpose in going to the house of Tranquilino Ulan in barrio Linao was to ask a carpenter to measure the window of his house, it would seem strange for him to stay in the house for almost two hours, a circumstance which makes his claim suspicious or a mere pretext to exculpate himself from liability. In the second place, his presence near the scene of the crime has been established by eyewitnesses for he has been identified as one of those who went to the Apasan bridge carrying a firearm minutes before the shooting and leaving the place thereafter in a hurry under suspicious circumstances. And finally, after he was apprehended, he made an extrajudicial confession wherein he admitted his participation in the killing. It is a well-known rule that a defense of alibi cannot be given credence when the identity of the accused is established by evidence which leaves no doubt as to his guilt.

The claim that appellant deserves acquittal for the reason that he did not fire a shot at the deceased and there is no evidence of conspiracy among appellant and his co-defendants cannot be sustained. It is true that the trial court observed that there was no evidence of conspiracy to hold defendants Marciano Bondad and Santiago Briz responsible for the acts of their co-accused, but this observation refers exclusively to said two accused for which reason they were absolved from the information. The trial court did not mean to refer to appellant and his co-accused Ricardo Reyes for as to them conspiracy has been established. This is clearly evidenced by their admission in their written confessions to the effect that they, together with their co-accused, conspired to take the life of Toribio Sungcaya. Even if it may therefore appear from his confessions that he has not fired any shot at the deceased, he is however responsible for the consequences of the act of his co-accused Ricardo Reyes.

Neither can appellant's claim that his written statements in connection with the killing are inadmissible in evidence for having been obtained by threat and torture be sustained, for such is belied not only by his own admission before a constabulary officer but by the very officials before whom he signed said confessions. We

refer to the Justice of the Peace of Calauan and the Municipal Judge of Lipa City who testified that appellant voluntarily executed them and never protested against the duress he now complains of. The injuries which appellant claims to have suffered while confined in the constabulary barracks were sustained by him not in connection with his confessions but when he attempted to escape. Indeed, it is very unlikely that the officers would torture him in the very presence of his relatives as claimed by the defense.

Premises considered, we find that the decision of the court a quo is supported by law and the evidence, and so we affirm the same, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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