

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIANO CU, ALIAS MACARIO CU, ALIAS MARIANO CABRALES,
ALIAS MACARIO CABRALES, ALIAS MARIANO CABRALES CU, ALIAS
MACARIO CAB...**

G.R. No. L-13413. April 22, 1977

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal by the accused Mariano Cu, alias Macario Cu, alias Mariano Cabrales, alias Macario Cabrales, alias Mariano Cabrales Cu, alias Macario Cabrales Cu, alias Macario Cu Cabrales, and Antonio Cabrales, alias Tony, from the judgment of conviction rendered against them by the Court of First Instance of Ilocos Norte, Judge Delfin B. Flores, presiding, of the crime of arson under Article 321, Paragraph 1 of the Revised Penal Code, the dispositive part of which reads:

"Judged by the foregoing rules, the above-narrated circumstantial evidence has convinced this Court that the herein accused, Mariano Cu alias Macario Cabrales and Antonio Cabrales, are guilty beyond reasonable doubt of the crime of consummated arson defined and punished under Par. 1 of Art. 321 of the Revised Penal Code.

"In the commission of this crime, the Court did not fail to notice the degree of malice and manifest perversity of the said accused. In their ever-consuming desire to realize their sinister aim - to build their fortune at somebody's misfortune - specially the accused Mariano Cu alias Macario Cabrales who wanted to recover his big loss in the previous conflagration, both accused had long planned the commission of this crime. Judging by their preparations, as above-described, it could be well imagined what would have become of the two old people, Ricardo Menor and his wife, had their house been engulfed with fire.

"The proximity of the house of Menor to the insured house of Mariano Cu and the drain-age which leads to Menor's yard which had been splashed with gasoline that came from the toilet reserved for the accused Cu where bottles of gasoline had been stored would have made the insured house of the accused Cu more easily susceptible of catching fire had not the fire in Menor's kitchen been extinguished on time. And with the presence of the 19 sacks of wood shavings and uncovered cans filled with gasoline in the bodegas of the accused Cu, had this said house caught fire, it could also be well imagined what would have become of the two families renting the second story and their children, the youngest of whom was barely one (1) month old. Their situation is all the more pitiable if it is considered that the stairs (see Exh. DD), their only easy way of escape, is inside the second story between rooms or bodegas Nos. 2 and I where the highly inflammable objects had been stored. The house, too, is surrounded by a fence of steel mating with barb wire still over it (t.s.n., 1291 - Baria). Since the two accused had purposely sought nighttime in the commission of this crime, in order to avoid detection, the darkness of the night would have made the escape of the inhabitants of these two houses more difficult indeed.

"In the commission of this crime, the Court finds the aggravating circumstances of evident premeditation and nocturnity to be present. In accordance with Paragraph 3 of Article 64 of the Revised Penal Code, the penalty in its maximum period must be imposed.

"The court, therefore, hereby condemns the herein accused Mariano Cu alias Macario Cabrales and Antonio Cabrales to suffer the penalty of reclusion perpetua with the accessories of the law and to pay the costs of the proceedings. In accordance with Article 27 of the Revised Penal Code, the imprisonment shall be computed at THIRTY (30) YEARS.

"SO ORDERED."

The information filed by then Assistant Provincial Fiscal now Justice Vicente G. Erica alleged:

"That on or about October 2, 1953, at midnight, in the municipality of Laoag, province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above- mentioned accused, conspiring together and mutually helping each other, willfully, unlawfully and feloniously set fire to a residential house owned by Ricardo Menor, located at Barrio 17, Laoag, Ilocos Norte, knowing it to be occupied at that time by the spouses Ricardo Menor and Leona Lorenzo, causing to the latter damage in the amount of P500.00. 'CONTRARY TO ART. 321, PARAGRAPH 1 OF THE REVISED PENAL CODE, WITH THE AGGRAVATING CIRCUMSTANCES OF NOCTURNITY AND PREMEDITATION.' "

Summarizing the evidence presented at the trial, the court a quo concluded:

"After analyzing the evidence submitted, the Court finds that in this case, there is no doubt that there was a fire outside the kitchen of Ricardo Menor in the night of October 2, 1953. This is undisputed. The accused Antonio Cabrales, while testifying in his behalf during the trial, said that he was awakened by shouts of 'Fire! Fire!' (t.s.n., 958 and 1044-Baria, see also his affidavit, Exh. EE) There is no doubt also that this fire had been caused by the burning of the jute sacks wet with gasoline which were placed on the table outside and against the eastern wall of Ricardo Menor's kitchen. There is no doubt too, that as a consequence thereof, the eastern wall of Menor's kitchen had caught fire resulting in the burning of a part of the said kitchen. (See partly burned boards, Exh. OO; Exhs. L, L-1 are pictures of the same.)

"The accused Mariano Cu, in company with his attorneys on February 11, 1954, or more than four (4) months later, went to see the burned part of Menor's kitchen and from a distance of 3-1/2 meters (t.s.n. 1225-Baria), the burned parts 'look like having been smoked by lamp' (t.s.n., 1221-Baria) or 'seems to have been impressed with hot flat iron (t.s.n., 1222-Baria). On ocular inspection made by the Court, it has been recorded thus: 'East of the makeshift kitchen, said parties, court and necessary personnel, viewed the wall of the makeshift kitchen and they saw the burned portion of said makeshift kitchen; below the left corner of the window of the said makeshift kitchen is burned spot which has been traced on a piece of paper by placing said piece of paper against the burned spot which piece of paper has been ordered attached to the records.' (t.s.n., 20-21-Baria) The undersigned too, after examining these boards, Exh. OO, whose pictures are Exhs. L and L-1, which are parts of Menor's kitchen, almost four (4) years later, found that portions of these boards had really been burned.

"If these are the only parts of said kitchen which had been burned in spite of the fact that the jute sacks were wet with gasoline and joined end to end by means of safety pins, one end of which placed on the table outside the kitchen and the other end placed in a can of gasoline inside Menor's dining room, it was because of the very timely arrival of Menor who poured water over the said burning sacks, thus extinguishing the fire.

"It must also be considered that the other end of the joined sacks which was placed in the can of gasoline inside Menor's dining room was a bit far from the burning end outside the kitchen, and with the wall of the kitchen, a space and again the wall of the dining room separating the two ends (t.s.n., 66-67-Baria. See Exh. D), the can of gasoline inside Menor's dining room where the other end of the joined sacks had been immersed could not have been instantly affected the fire outside. This is also true with respect to the cans of gasoline under the table where the stove was. The table over the said cans of gasoline may have prevented also the instant effect of gasoline to the fire outside. It should be considered further that if the joined sacks which had been wet with gasoline had been placed after 8:00 o'clock when Menor went to sleep (t.s.n., 187-Baria) and set on fire after

12:00 o'clock P.M. when Cu left for Manila or three (3) or four (4) hours later before they were set on fire, these sacks, specially those that were on the table outside, may not have been sufficiently wet with gasoline any more as gasoline easily evaporates due to its high volatility.

"Whether this is a consummated case of arson, considering the extent of the burned portion of Menor's kitchen, in a case the Supreme Court held:

'CRIMINAL LAW; ARSON; CONSUMMATED.

The appellant in this case did in fact set fire to the roof of the house of the offended party, and said house was in fact partially burned. With this, the crime of arson was consummated, notwithstanding the fact that the fire was afterwards extinguished, for, once the fire has been started, the consummation of the crime of arson does not depend upon the extent of the damages caused. (U.S. vs. Go Foo Soy and Go Jancho, 25 Phil., 187; U.S. vs. Po Chengo, 25 Phil., 487; People vs. Hernandez, 54 Phil., 122. [Italics supplied])

"What must have been the reason or motive of the accused in perversely burning the house of Ricardo Menor, their near neighbor? One need not think deeply or reflect conscientiously for the reason or motive is not hard to find.

"It was proved that the house of the accused Mariano Cu is only 3 meters away from that of Menor's house. (t.s.n., 14-Baria) The relative positions of both houses can be seen in the pictures, Exhs. M & M-2. In these pictures, Cu's house is on the right while the eastern eaves of Menor's house, in the said pictures, appear partially on the left. (t.s.n. 113-114-Baria) It has also been proved that this house of Cu's is assessed at P4,000.00. (Exh. Y) Its worth, however, is P20,000.00 according to the estimate of an engineer of the Philippine American General Insurance Company who examined the said house. (Exh. Z-4) But the said house has an insurance of P40,000.00 and its furniture and other personal belongings were also insured for P5,000.00 or a total of P45,000.00. (Exhs. O & Q) The stocks of good worth P30,000.00 which were in the bodegas of the accused under the said insured house has been insured in the amount of P25,000.00. (Exh. P) According to the insurance agent, when the stocks had been insured they were in boxes and crates and were not opened any more as the Insurance Agent had faith in the accused Mariano Cu. (t.s.n. 131-132-Baria) But when these boxes were later opened by Lt. Andres in the presence of Mrs. Cu in the morning following the fire, they were nothing but burned hardwares and junks. (t.s.n. 390, 391, -397, 398, 399-Baria) salvaged, according to accused Antonio Cabrales, from the last conflagration in Laoag on December 22, 1952, (t.s.n. 1038-1039-Baria) and without value (t.s.n. 1041-Baria).

"When the kitchen of Menor was set afire in the night of October 2, 1953, the house of the said accused, together with the junks in the bodegas under it had a total fire insurance of P70,000.00 (Exhs. O, P & Q). It is the temptation and the urge of collecting the amount of the insurance by accused Mariano Cu and the expectation of the accused Antonio Cabrales to have a share in the same that had made the two for sometime planned, conspired and cooperated with each other to burn the house of Menor. And considering that barely 10 months before this incident or more particularly on December 22, 1952, the accused Mariano Cu had been a victim of fire in which he had lost everything in his uninsured store including their clothings and family jewelry. (t.s.n. 1125, 1410-Baria and Exh. U) It is reasonable to conclude that the said temptation must have been great. And considering also that the accused Antonio Cabrales was only a caretaker, without salary, or, the pigs and chickens of his co-accused cousin (t.s.n. 1031-Baria) and it was only less than two (2) months before the fire that he has been given a salary of P30.00 plus bonus if business was good with free board and lodging (t.s.n. 944-945, 1030-1031-Baria), the temptation to commit this crime of arson in order to have a share in the insurance money when it shall have been collected must also be great if not greater than that of his co-accused cousin, Mariano Cu.

"But in order to collect the P70,000.00 fire insurance, it was necessary to burn the insured house and the insured junks under it. If the fire would have started from the first floor of the insured house wherein the

insured junks were stored and where the accused Antonio Cabrales was the only person sleeping, the conclusion that the burning of the insured house and the insured junks under it was intentional in order to defraud the insurer, will be irresistible and as such the insurance will not be collected. And knowing this, in order to avoid any semblance of suspicion, the two accused had decided that in order to burn the over-insured house of the accused Mariano Cu together with the insured junks under it so that the P70,000.00 insurance could be collected easily without much ado, the fire must come from the house of Ricardo Menor. This is the *raison detre* or the very motive of the two accused in planning and cooperating together to burn the said house of Ricardo Menor, their near neighbor. This could be done easily because in that house, being near neighbors, both accused knew that there were only two old people who slept on that night of October 2, 1953, - Ricardo Menor, 69 years old and his equally old wife, 72 years. (t.s.n., 35-Baria.)

"To this end, so that they can realize their evil purpose, in the month of August or September, 1953, the accused Mariano Cu paid the old man Ricardo Menor a visit in his house bringing with him gifts consisting of two bottles of coca-cola, a can of milk and anisado wine, (t.s.n., 18, 19, 31 - Baria) so keen was his survey and observation that the accused Mariano Cu even noticed the broken window panes of one of the windows of the ground floor of Menor's house and suggested to Menor to have it changed to cardboard, (t.s.n., 19-Baria) but old Menor answered him that he preferred it to be that way so that when his son will see it, he will be the one to change it. (t.s.n., 361-362.)

"Perhaps in that visit, the accused Mariano Cu must have noticed Menor's dog. So that this dog, the only guard of this aged couple, could not be a hindrance to their sinister design, this dog, must have to be eliminated. It happened that one morning, in the month of September, 1953, Ricardo Menor noticed that there were pieces of pork meat scattered around the premises east of his kitchen and as he was clearing his premises of said pieces of meat, it happened that his dog ate some of them and as a consequence, his dog died. (t.s.n., 17-18-Baria.) It was then that old Menor realized that the small pieces of pork meat which had been scattered had been poisoned. (t.s.n., 17-Baria.)

"In order to ascertain that this dog had really died, Rosalinda Francisco, wife of the accused Mariano Cu, paid also old Menor a visit during the last days of September, 1953, purposely asking this old man to give her a puppy but old Menor told her that he could not give her one because his dog had been poisoned. (t.s.n., 33-34-Baria.)

"So that the two houses could easily be burned, the accused Mariano Cu saw to it that inflammable materials must be stored under his insured house. For this purpose, he was seen by the workers of the automobile shop of Fred Fariñas which is located a block away but along the same road as the insured house of the said accused bringing to his said house boxes and sacks containing something which were loaded in the trailer of his jeep. (t.s.n., 687-Baria, Exhs. HH, HH-1 translation for the prosecution which were Exhs. 13 and 13-A, translation for the defense.) Whenever Mariano Cu passed by, said accused had been the butt of their jokes because accused Mariano Cu, at the time, was acting as if he were a smuggler. (t.s.n., 688, 706-Baria.) It turned out that these sacks containing something and the boxes were the 19 sacks full of wood shavings and cans of gasoline found in his bodega by Lt. Andres and Mrs. Cu in the morning of October 3, 1953. (Exhs. CC, BB, BB-1 and BB-2.) Some of these sacks and cans were with 'F. H.' initials, same as the initials of the two sacks full of wood shavings and can of gasoline found in the kitchen of Ricardo Menor that same morning. Parenthetically, the name of the store of the accused Mariano Cu is 'Filipino Hardware Store'.

"In order that the junks with no or little value were the only ones left in his bodegas, the said accused before the date of the fire had removed from his said bodegas 100 boxes of wine called 'anisado' and placed them in the camarin of his mother-in-law. (t.s.n., 455, 456-457, 458-459-Baria.) In the event that the accused would have been successful in burning his insured house, the many empty bottles found in the morning following the fire by Epifanio Cu in the toilet reserved for the accused (t.s.n., 10-11-Ranjo) would have taken the place of those 100 boxes of wine which were removed and placed, as above stated, in the camarin of his mother-in-law.

"Ordinarily, the accused Mariano Cu sent his servants to collect the rentals of his insured house (t.s.n., 1112-1113-Baria), but the said accused at 10:00 o'clock in the night of October 2, 1953, although it was rather late to collect rental, went himself to his insured house not only to collect rents from the two brothers but also to have the padlocked toilet reserved for him cleaned but it turned out however, that the said toilet had not been cleaned (t.s.n., 8-11-Ranjo) because in the following morning, October 3, 1953, the said toilet was already opened and in it were many bottles filled with gasoline (t.s.n., 10-Ranjo). Considering that his co-accused cousin, Antonio Cabrales, was still awake exchanging jokes with Epifanio Cu till midnight that night, (t.s.n., 32-Ranjo) it is reasonable to conclude that when Mariano Cu went to his insured house at that time, his purpose was not only to collect rent but also to put some gasoline in the toilet and to see whether everything was in readiness preparatory to the burning of the house of Ricardo Menor.

"The accused Antonio Cabrales, who was the only person sleeping in the second floor of the insured house must have readily accepted the proposition of his co-accused cousin, Mariano Cu, to have a share in the insurance when the same shall have been collected. So, as previously planned, the accused Cabrales had placed the inflammable objects in the kitchen of Ricardo Menor at midnight of October 2, 1953, was still awake and exchanging jokes with Epifanio Cu (t.s.n., 32-Ranjo). The accused Antonio Cabrales, in order not to awake the old couple who were, by then, soundly sleeping upstairs, (t.s.n., 35-Baria) had been very careful because instead of nailing the five (5) 1-gallon cans of gasoline on the wall of the kitchen he screwed them. (t.s.n., 74, 380-381-Baria, Exhs. AA, AA-1 to AA-4.)

"After assuring himself that everything was ready as his co-accused cousin Antonio Cabrales must have already placed those inflammable objects in Menor's kitchen as above-described, the accused Mariano Cu, in order to have a perfect alibi, hurriedly left for Manila, starting from Laoag, according to the said accused at 12:00 o'clock P.M. and arriving in Manila at 11:00 A.M. the following day, October 3, 1953. (t.s.n., 1115-1116-Baria.)

"As stated in the first part of this decision, because of the timely arrival of Menor, the kitchen was not completely burned, the accused Mariano Cu, was nevertheless, well-posted of what was happening because, although their intention has not been realized at all, said accused had received a telegram from his wife, Exh. LL, telling him that 'Fred has not given him money, from Laoag at 8:30 A.M. of October 3, 1953. Because of the failure to burn the two houses, the accused Mariano Cu was very desirous to know the situation, so said accused sent a rush telegram to his wife, Exh. LL-2, Jimmy worst or fair wire immediately'. At this time, the police authorities and the Philippine Constabulary had already begun investigating this case and as a matter of fact, they have already investigated Antonio Cabrales. Rosalinda Francisco Cu, wife of the accused Mariano Cu, sent a rush telegram to her accused husband in answer to the rush telegram of the accused, thus — 'Jimmy condition serious come home immediately'. Dr. Benedicto Cu, brother of the accused Mariano Cu, sent also said accused a letter, Exh. 14, telling him that he was implicated in the crime.

"In refuting the above narrated circumstances, Mariano Cu denied having visited old man Menor and giving him gifts during that visit. But considering the education of this old man, his statement that he has been visited by the accused Mariano Cu, may have been said casually and innocently as an answer to questions asked him just as he had innocently and casually stated that Rosalinda, wife of the accused, had visited him asking him for a puppy. This old man not knowing the importance of his statements as he was ignorant of other facts with which to link them, could not have fabricated the said visits of Mariano Cu and his wife. That far from his mind to fabricate, this old man stated that he did not know of anybody who could have committed the crime, nor does he suspect anybody. (t.s.n., 372-Baria, Exh. '2') Considering furthermore that a negative statement of the accused Mariano Cu cannot prevail over the positive statement of Ricardo Menor, the Court prefer to believe the statement of Ricardo Menor that sometime in the month of August or September, 1953, the accused Mariano Cu had visited him and that Rosalinda Cu went to his house before October 2, 1953, asking for a puppy.

"Again, the accused denied that they had put these 19 sacks of wood shavings and the cans of gasoline in his

bodegas. But the accused Mariano Cu and his co-accused cousin, Antonio Cabrales, have not denied, because they cannot deny that in the morning of October 3, 1953, there were splashed of gasoline in the drainage running from east to west leading to Menor's yard; that there were 19 sacks of wood shavings some with 'F.H.' initials, a match, some used sticks of matches, two propaganda papers of the Liberal Party during the election of 1951, several 1-gallon cans with wire handles and boxes of burned hardware, junks and empty bottles were found by Lt. Andres and Mrs. Cu in the different bodegas of the accused in the second floor of his insured house. The inflammable articles had not only been listed in Exh. CC, the original of which was given to Mrs. Rosalinda Cu that same morning, but their pictures had also been taken in one of the very bodegas of the accused, Exhs. BB, BB-1 and BB-2.

"The two accused too have denied having placed in the kitchen of Ricardo Menor the inflammable objects found there by Menor, the police and constabulary authorities. But they have not denied because they cannot deny, that in the morning of October 3, 1953, in the kitchen of Menor there were found two sacks full of wood shavings with 'F.H.' initials same as the initials of some of the sacks full of wood shavings found in the bodega full of gasoline with the initial 'F.H.' same as the initials of some of the cans full of gasoline found in the bodegas of the accused; that there were the five (5) 1-gallon cans with wire handles full of gasoline, same as the several 1-gallon cans with wire handle full of gasoline in the bodega of Mariano Cu; that there were several used match sticks around the kitchen premises of Menor and there were also used match sticks near the small gate of Mariano Cu as well as in this bodegas, and that there were partly burned election propaganda materials of the Liberal Party in the election of 1951 tied to a piece of wire found in the kitchen premises of Menor (Exhs. E, E-1 and E-2) same as the propaganda materials of the Liberal Party for the 1951 election found in the bodega of the accused Mariano Cu (Item 10, Exh. CC).

"The accused Mariano Cu also denied having put the 100 boxes of 'anisado' wine in the camarin of his mother-in-law before October 2, 1953, but the said accused has not denied because he cannot deny that in the morning of October 3, 1953, Lt. Andres found 100 boxes of 'anisado' in the camarin of his mother-in-law.

"Because they cannot deny the existence of these above-mentioned inflammable objects in the bodegas of the accused as well as in the kitchen of Menor in the morning of October 3, 1953, the accused Mariano Cu insinuated that when he lost the duplicate of his keys for his bodegas (t.s.n., 14-Blas) these inflammable objects may have been placed by his enemies, Angel Pichay and Fred Fariñas (t.s.n., 1257-1258-Baria). If there were really valuable stocks worth P30,000.00 in his bodegas under his insured house, which he had insured for P25,000.00, certainly, the need of keys to shut the doors of his bodegas must, to him, be of paramount importance. Considering that he is the owner of the Filipino Hardware Store and considering furthermore that the accused Mariano Cu is a man who is careful and precautions was not only satisfied of locking the doors of his bodegas and providing their windows with iron grills (t.s.n., 1046-1047-Baria), but also provided them with bars as a precaution (t.s.n., 14-Blas), it is reasonable to believe that the keys, under these circumstances, must have already been changed before October 2, 1953, to avoid pilferage, that is, in the event that the duplicate keys had been really lost.

"But the stubborn fact is that Lt. Andres in that morning of October 3, 1953, was not able to open the accused's bodegas and because of this, Lt. Andres had to fetch Mrs. Cu from their store and brought her to their insured house with the keys. However, according to the evidence of the defense, it was Cu's maid, Agustina Batuyong, who gave the keys to Sgt. Bartolome. Whatever is the case, there was the necessity of the keys with which to open the bodegas and the cabinets. Such being the case, it was impossible for other people of his alleged enemies for that matter, without forcibly opening or breaking the doors of the bodegas, to have placed these highly inflammable materials inside his bodegas before the date of the fire. According to the accused Antonio Cabrales, when he left at 6:00 o'clock, the room or bodega No. 1 where he slept and where these highly inflammable materials are found that morning of October 3, 1953. He padlocked the said room (t.s.n., 957-958, 1046-1047-Baria). At that time there were no sacks of wood shavings or cans of gasoline in the said room or bodega. (t.s.n., 958-Baria.) But when he was brought to that room or bodega No. 1 by the Philippine

Constabulary soldiers for investigation at 7:00 o'clock that same morning, he then saw these sacks of wood shavings and cans of gasoline. (t.s.n., 957, 1033-1034-Baria.) If the door had been closed, as stated by Antonio Cabrales himself, it was impossible for Cu's enemies like Pichay and Fariñas to have put all these highly inflammable things inside the room or bodega No. 1 without a key and, assuming that they had the duplicate keys as insinuated by Cu, it was still impossible for them to have put these inflammable materials in so short a time as barely one (1) hour without being seen by people in the neighborhood or without attracting the attention of passersby considering that the insured house of the accused Mariano Cu is on the crossing of two streets in a thickly populated section of the town.

"These 19 sacks of wood shavings and cans of gasoline found in room No. 1 or bodega No. 1 under the insured house of Mariano Cu and wherein the insured stocks were stored should not have been placed there by all means, if the purpose of the owner in insuring his house and his goods was honest considering the danger of these very highly inflammable objects in case of fire. But their being there in the night of the fire can have no other meaning or purpose than to unmistakably show the evil motive of the persons responsible in placing them there. The court believes that, after analyzing the evidence, these inflammable objects had been placed in that bodega or room by no other persons than the herein accused Mariano Cu and Antonio Cabrales and for no other purpose than to burn the said insured house together with the insured junks in the bodegas under the said insured house so that the insurance of P70,000.00 will be collected and later to be divided between the two accused.

"Because it is admitted, as above-stated, by the defendant Antonio Cabrales that in the night of October 2, 1953, there was a fire outside the kitchen of Ricardo Menor, the accused Mariano Cu again insinuated that his two enemies, Angel Pichay and Fred Fariñas must have been the ones who had set on fire the kitchen of Ricardo Menor and then laid the blame on him. (t.s.n., 1234-1235-Baria.) According to the accused Cu, he became an enemy of Angel Pichay before the war and during their high school days yet (t.s.n., 1235-Baria) and regarding Fred Fariñas, the accused became his enemy after the fire, that is, on February 11, 1954, to be exact. (t.s.n., 1239-Baria.) Although in the house of Ricardo Menor, in the night of October 2, 1953, nobody else was living except the old and helpless couple (Menor and his wife) and as such they could have easily been the victims of any evil or foul intention specially when their dog, their only guard, had been poisoned, it is absurd and ridiculous to believe that Fred Fariñas who was not Cu's enemy before the fire took place will conspire with Angel Pichay whose enmity with Cu is already too far back in point of time as to be a fresh cause for a serious revenge by burning the house of Ricardo Menor who, according to the accused Cu himself, is their friend, (t.s.n., 1240-Baria) for no other purpose than to enjoy the satisfaction of seeing their enemies, Mariano Cu and Antonio Cabrales blamed. Besides, the house of Fred Fariñas is only separated by two or three houses from Menor's house and the house of Angel Pichay is also separated by two or three houses from that of Menor's house, Exh. 23. Certainly, without any strong and compelling motive, these two persons could not have been so foolhardy to burn Menor's house knowing that by so doing, they were also endangering their respective houses. Under the circumstances, the Court believes that Menor's kitchen had been set a fire by no other persons than the two accused herein so that by burning Menor's house which is only 3 meters from the insured house of Mariano Cu, his said house together with the insured junks under it would have also been burned, thus avoiding any suspicion that the burning of the over-insured house of the accused Mariano Cu together with the insured junks had not been intentional and therefore the P70,000.00 insurance could easily be collected without much ado.

"Considered separately, the telegrams, Exhs. LL, LL-A and LL-B are just ordinary telegrams informing the accused Mariano Cu of what was happening in his family and home during the day after the fire. Exh. LL is a telegram of Mrs. Cu to her accused husband, which says, 'Not able get money Fred can't send any'. This telegram is nothing but an information given by Mrs. Cu to her accused husband to the effect that Fred has not given money so she cannot send any. But considering the fact that Fred, according to the accused, owed him only P70.00 on April 30, 1953, payable on May 30, 1953, (t.s.n., 1116, 1332-Baria) and that there had been no attempt to collect the said amount except once in 1954 (t.s.n., 1333-Baria) and considering further the fact that

it was not even known whether or not the said Fred had gone to the house of the accused Mariano Cu in order to pay said accused the said amount on that morning of October 3, 1953, there was scarcely any need if at all, for Mrs. Cu to have sent this telegram to her accused husband during the first office hours in the morning of October 3, 1953. (Exh. LL was sent at 8:33 A.M.) But connecting and considering the wordings of this telegram in the light of what had happened the night previously, that is, when the kitchen of Menor has been set on fire and their house, in spite of the preparation, has not been burned, the above-quoted telegram is clearly more than meets the eye. It is a coded information sent by Mrs. Cu to her accused husband, after knowing that the house of Menor failed to be burned completely and so with their house and because of this, there was no money as the insurance could not be collected under the circumstances.

"Although the accused Mariano Cu should not have hurriedly left for Manila at such an unholy hour at 12:00 o'clock that night of October 2, 1953, (t.s.n., 3-Blas) because his only child, Jimmy, then 3 years old was sick and furthermore his cousin Vicente Cabrales was to pay him P2,000.00 at 7:00 o'clock in the morning following the fire, October 3, 1953, (t.s.n., 1117-1118-Baria) he left just the same for no other purpose than to attend the birthday celebration of his nephew where wealthy Chinese businessmen will attend and on that gathering he will have the opportunity of meeting them and also to buy merchandise for his Filipino Hardware Store. At 5:30 o'clock that same afternoon, when the birthday celebration was perhaps in full swing, the accused Mariano Cu became suddenly nostalgic and solicitous of his only child, Jimmy so he sent to Mrs. Cu a rush telegram, Exh. LL-A, thus — 'Jimmy condition fair or worst reply immediately'. As it is worded, the telegram is nothing but an inquiry of a solicitous father about the condition of his only child who was sick when he hurriedly left for Manila. If the sickness of his only son, Jimmy, was such as to have prompted him to send to Mrs. Cu that rush telegram, Exh. LL-A, he should have postponed, in the first place, his going to Manila if his purpose only was to meet the Chinese businessmen in the birthday party of his nephew because he will still have time and opportunity to meet them in the future, if he has not already met them before, considering that the herein accused is already an old hand in business. Furthermore, he should not have hurriedly left for Manila at 12:00 o'clock that night because the P2,000.00 which was already a sizeable amount for buying merchandise was to have been given by his cousin Vicente Cabrales by 7:00 o'clock that following morning and it was only a matter of seven (7) hours to await. But if the said telegram, Exh. LL-A, is connected and considered in the light of the situation loconically described by the telegram, Exh. LL, because the accused Mariano Cu has not heard from his wife any more since 8:30 o'clock that morning when the telegram, Exh. LL, had been sent and it was already 5:00 o'clock in the afternoon, when Exh. LL-A has been sent, it is safe to conclude that the said telegram was a very urgent request for further information regarding the burning of the house of Ricardo Menor.

"In answer to the telegram, Exh. LL-A, Mrs. Cu sent at 7:20 o'clock that same evening, October 3, 1953, to her accused husband the following rush telegram as follows: 'Jimmy condition worst come home'. (Exh. LL-2.) Thus telegram is logically an answer to the telegram, Exh. LL-1. But connected and considered in the light of what was taking place at that time: that the police and constabulary authorities had already taken steps to investigate the burning of Menor's kitchen; that his cousin Antonio Cabrales had already been taken by the Philippine Constabulary in their barracks for investigation and that said Mariano Cu was likely to be implicated (t.s.n., 887-Baria), a fact confirmed by the letter of his brother Dr. Cu (Exh. 14) sent to said accused urging him also to come home, it is therefore safe to conclude that the above-quoted telegram, Exh. LL-2, is a complete description, although not expressed in so many words, of what was taking place here in Laoag on that day regarding the burning of the said kitchen of Menor.

"There can, therefore, be no doubt that the accused Mariano Cu's going to Manila hurriedly in the night of the fire after visiting his insured house was to create an impression that when the kitchen of Menor was set on fire, the said accused was in Manila or his way to Manila and the afore-mentioned telegrams sent him were not only self-serving evidence of his being in Manila but more of a preconceived and pre-arranged coded information regarding the result of the fire and its consequences.

"It is very surprising to the Court that as circumstances are being brought out strongly and unmistakeable pointing to the guilt of her accused husband, Mrs. Rosalinda Francisco Cu, wife of the accused Mariano Cu, and herself a school teacher, remained aloft and indifferent as she did not even bother herself to come to Court to deny the circumstances in which, it is alleged, she took part. She should have come to Court and denied her visit to the house of their near neighbor, Ricardo Menor, asking for a puppy, she should have denied the positive statement of Lt. Andres to the effect that she had fetched her (Mrs. Cu) from their Filipino Hardware Store so that she will bring the keys of the bodegas and cabinets when said Lieutenant could not open them; she should have denied that she helped Lt. Andres open the doors of the bodegas and the cabinets; she should have denied the important fact that what she and Lt. Andres found in that morning of October 3, 1953, in the bodegas of her accused husband were not burned hardwares and junks as claimed by Lt. Andres but instead, valuable hardware and goods worth P30,000.00. She should have denied that there were such inflammable objects in their bodegas in the morning of October 3, 1953, or denied having received from Lt. Andres Exh. CC. She should have enlightened the Court regarding the sending of the telegram whether or not Fred had really gone to their store that morning without the money or given more light as to the true condition of their only child when she sent a telegram to her accused husband in answer to her husband's telegram, Exh. LL-2, inquiring about the condition of their only child. The reason why Mrs. Cu did not come to testify in behalf of her husband is that, according to the accused, he scolded his wife for playing mahjong (t.s.n., 1261-Baria) which is of course a flimsy excuse for not coming to Court to testify in behalf of her husband whose liberty is at stake. What is true to Mrs. Cu is likewise true to Cu's mother-in-law. Knowing too, that the liberty of her son?in-law is at stake, she (mother-in-law) should have come to Court to deny the existence of the 100 boxes of 'anisado' wine which Lt. Andres found in her camarin on October 3, 1953. Because these facts have not been denied and contradicted, they must be deemed conclusive. (Cruz et al. vs. Asociacion Zanjera Casilian, et al., L-1614 and L-1617, Prom. March 30, 1949.)

"The accused Antonio Cabrales denied the contents of his affidavit, Exh. EE, for the reason that the same had been extracted from him by force. According to this witness, he had been maltreated by Lt. Andres in the Philippine Constabulary barracks and as a consequence, he suffered some minor injuries. According to Dr. Santos, the accused had suffered contused wounds on the lower lip, frontal region and in front of the neck, Exh. 15. What surprises the Court is that in spite of the fact that he had engaged the services of a lawyer in the person of Congressman Floro Crisologo (t.s.n., 8-Blas) even at the very beginning of this case, and although it was known that Lt. Andres had inflicted the said injuries, there had never been a complaint, criminal or administrative, filed against Lt. Andres. Besides, the answer to the questions propounded to Antonio Cabrales in his affidavit were correctly and naturally given that the Court cannot attribute that force has been employed on the person of the said accused. Had the Constabulary wanted to, with the use of force, they could have prepared a very tight affidavit for the said accused to have signed. For this reason, the Court believes that the contents of Exh. EE had been freely given.

"The accused Antonio Cabrales, although did not deny that he had been investigated by the Chief of Police on October 5, 1953, however, denies his admission before the said Chief of Police Vicente Samonte of Laoag, Ilocos Norte, to the effect that the said accused and his co-accused cousin Mariano Cu had long planned to burn the house of Ricardo Menor so that he will be given a share in the insurance when it shall have been collected. Said accused denied further that he reiterated this admission before Lt. Andres.

"If this admission had not been written according to these officials, it was because it was the wish of the said accused as his attorney did not like him to sign any paper. Lt. Andres and Chief of Police Samonte are two responsible officials without any axe to grind against Antonio Cabrales. They know of the gravity of the crime of arson and as such they are not so senseless and conscienceless as to incriminate an innocent person. These two officials could have, had they wanted to, prepared a written statement to this effect for Antonio Cabrales to sign by force, if necessary, but they did not out of respect to the wish of the said accused. This admission taken together with the facts and circumstances brought out by the prosecution during the trial, the Court has not the least doubt that the said admission has been made.

"The accused Mariano Cu during the trial likewise denied having said to Lt. Andres, 'Never mind already teniente I will take care of you'. Considering that this statement was uttered at the very moment when said accused had been confronted by Lt. Andres about the admission of his co-accused cousin Antonio Cabrales that both had planned the arson to collect the insurance and conscious of the strong circumstantial evidence already gathered by the prosecution against him, this accused must have believed that the only way out, under the tight circumstances, was to bribe Lt. Andres. Besides, the negative statement of this accused cannot prevail over the positive statement of Lt. Andres who has no axe to grind against Mariano Cu. For this reason the Court believes that the said accused had said the above-quoted statement in order to save himself.

"It is strongly argued by counsel of Mariano Cu that the admission of Antonio Cabrales must affect him alone and not his client, the accused Mariano Cu. But in this case, there is a very strong evidence of conspiracy apart from the said admission of the accused Antonio Cabrales. The over insurance of Cu's house and the insurance of the junks in boxes in his bodegas under his insured house; his visit to the house of Menor; the poisoning of Menor's dog so that there was no hindrance in the burning of Menor's house. In order to ascertain the death of the dog, Mrs. Cu visited Menor asking for a puppy of the dead dog; the bringing of the inflammable objects to his bodega; that same objects had been found in the kitchen of Menor during the fire, are more than enough evidence to show conspiracy and considering that Antonio Cabrales will have a share in the insurance, it is safe to conclude that these two accused had conspired to commit the crime imputed against them. (People vs. Faltado, 46 O.G., 6079.)

"Considering the evidence submitted, the following facts are either undisputed because they are admitted by the accused themselves or proved beyond the cavil of doubt during the trial of this case:

"1. It is admitted by the accused that during the conflagration here in Laoag, on December 22, 1952, the former store of Mariano Cu had been completely burned including the clothing and the jewelry of the family. (t.s.n., 1125-Baria.)

"2. It is an admitted fact that the accused Mariano Cu knowing the advantages of insurance at this time, insured his Filipino Hardware Store worth P50,000.00 for only P5,000.00, Exh. U and Exh. 26), whereas the stocks in the bodegas under his insured house worth P30,000.00 has been insured for P25,000.00. (Exhs. O, P and Q.) These stocks or goods were in boxes and crates which have not been opened because the insurance agent had faith in the accused Mariano Cu. (t.s.n., 131-132-Baria.) But when these boxes and crates were opened by Lt. Andres and Mrs. Cu their contents were worthless junks.

"3. The fact that several months before October 2, 1953, or more particularly in July, 1953, the accused Mariano Cu wanted to insure his house with the Capitol Insurance Company for P75,000.00 but the same had been rejected because the house is worth P20,000.00 only, according to the investigation of the company's engineer, Exhs. Z and Z-4.

"4. The fact that after the rejection of the above-mentioned insurance he was successful in insuring not only his house, its furniture and fixtures but also the stocks in his bodegas under this said house for P70,000.00, Exhs. O, P and Q.

"5. The fact that he visited the house of Menor bringing with him gifts but in reality went to survey the said house because he even noticed the broken glass of the window pane and even suggested that the same be changed to cardboard.

"6. That one morning in the month of September, 1953, there were poisoned meat around the premises of Menor's kitchen which Menor's dog had eaten some of it and as a consequence, the said dog died. Thus getting rid of the only guard of the old couple.

"7. The fact that the poisoning of Menor's dog had been followed by a visit of Mrs. Cu to Menor's house asking for a puppy but Menor told Mrs. Cu that his only dog had been poisoned, thus ascertaining that the dog

had really died.

"8. The fact that several days before October 2, 1953, the accused Mariano Cu had been seen bringing to his bodegas boxes and sacks which were loaded in his trailer. These things were later found to be sacks of wood shavings and gasoline.

"9. The fact that before October 2, 1953, the accused Mariano Cu had transferred 100 boxes of wine to the camarin of mother-in-law.

"10. His going to his insured house at the late hour of 10:00 o'clock in the evening of October 2, 1953, allegedly to collect rent and to have his toilet cleaned was to see whether everything was in readiness preparatory to the burning of the house of Ricardo Menor.

"11. The fact that the inflammable objects found in Cu's bodegas by Lt. Andres were the same as those inflammable objects found in Menor's kitchen.

"12. The fact that there were splashes of gasoline in the drainage north of Cu's house running from east to west going to the kitchen premises of Menor.

"13. The fact that the only person sleeping under the insured house of the accused Mariano Cu is his co-accused cousin, Antonio Cabrales.

"14. The defendant Mariano Cu's hurriedly going to Manila at 12:00 o'clock on the night of the fire on October 2, 1953, without first waiting for the money to be paid him in the following morning and in spite of the fact that his only child was sick, for no other purpose than to attend the birthday celebration of his nephew and to buy merchandise, was to have an alibi.

"15. The telegram Mrs. Cu sent to her accused husband and the telegrams sent by the accused Mariano Cu to his wife are coded information about the result of the fire.

"16. The admission of the accused Antonio Cabrales that the said accused and his co-accused cousin, Mariano Cu, had planned this crime so that when the insurance of the house and the stocks amounting to P70,000.00 shall have been collected he will be given a share and finally,

"17. The attempt to bribe Lt. Andres when confronted by the admission of his co-accused cousin, Antonio Cabrales, the accused Mariano Cu said, 'Never mind already teniente I will take care of you.'

"During the trial of this case and while accused Mariano Cu was on cross examination, there was a significant question of the prosecution with an equally significant answers of said accused which contain in a nutshell the motive of the accused in burning the house of Ricardo Menor. Because it is surprising that a businessmen like the accused Mariano Cu had insured his Filipino Hardware Store worth P50,000.00 located in the business section of the town where the risk of fire is great for only P5,000.00, Exh. 26, where as the stocks in his bodegas located in a place where the risk of fire is not great worth P30,000.00 has been insured for P25,000.00, Fiscal Vicente G. Ericta had asked the following questions to the accused Cu:

"Q. On October 2, 1953, can you estimate and tell the Honorable Court the value of your stocks stored in your Filipino Hardware?

"A. If I am not mistaken, Sir, my estimate is more than P50,000.00.

"Q. And on the same date, October 2, 1953, what was the value of all your stocks you had in your three bodegas in your house at the corner of Villanueva and M. H. del Pilar Streets?

"A. More than P30,000.00.

"Q. And do I understand that the only insurance of your P50,000.00 stock in the hardware was P5,000.00 as

per Exhibit '26'?

"A. Yes, sir, because I had no intention to burn; it is only with the help of God and further-more, the premium is too high. (t.s.n., 1265-1266-Baria) Underscoring supplied.

"Because 'crime will out', the answer of the accused, whether it was wittingly or unwittingly given or whether or not it was only a slip of his tongue, has betrayed himself. The inevitable inference from the foregoing answers is that his purpose in insuring the junks valued P30,000.00 in his bodegas under his insured house for P25,000.00 was to burn them in order to collect the insurance. It cannot be said that the answers are isolated state-ments of the accused because it is one of the most important points of this case in which all the evidence of the prosecution had been centered proving this point and the defense of the accused had been marshalled disproving the same. And since the accused had already made manifest his motive as above-stated, there is no reason why this Court will not believe the said accused because 'No man would declare anything against himself, unless such declaration were true'. (U.S. vs. Ching Po, 23 Phil., 578)

"All these formidable array of circumstances taken together had more than convinced the Court that the two accused, Mariano Cu and Antonio Cabrales, had planned, conspired and cooperated together to burn the house of Ricardo Menor so as to avoid the suspicion that the burning of Cu's insured house together with the insured junks has been intentional thus making the collection of the insurance of P70,000.00 easily."

In the two briefs filed by the appellants within the space of one week,[1] they have assigned a total of seventeen (17) alleged errors of the trial court, most of which are overlapping, as follows:

1. In the brief signed by Atty. Antonio Raquiza:

"I

"THE LOWER COURT ERRED IN NOT HOLDING AS HIGHLY IMPROBABLE THE TESTIMONY OF MENOR ON THE PROCEDURE THE ACCUSED AL-LEGEDLY FOLLOWED IN BURNING HIS (MENOR'S) HOUSE.

"II

"THE LOWER COURT ERRED IN HOLDING THAT THERE WAS AN ATTEMPT BY ANYONE INCLUDING THE ACCUSED TO BURN THE HOUSE OF RICARDO MENOR.

"III

"THE LOWER COURT ERRED IN FINDING THAT THERE WAS ACTUAL FIRE INCENDIARY IN NATURE AT MIDNIGHT OF OCTOBER 2, 1953, FOR IN TRUTH THERE WAS NONE.

"IV

"THE LOWER COURT ERRED IN NOT CONCLUDING THAT, GRANTING WITHOUT CONCEDED THAT THERE WAS FIRE, NO PORTION OF MENOR'S KITCHEN WAS EVER BURNED.

"V

"THE LOWER COURT ERRED IN ITS FAILURE TO UNDERSTAND THE HIGHLY INFLAMMABLE QUALITY OF GASOLINE, AND IN NOT HOLDING THAT, CONSIDERING THE VOLUME OF THE FIRE DESCRIBED BY MENOR AND ITS PROXIMITY TO THE STOCK OF GASOLINE, AN EXPLOSION COMPARABLE WITH THOSE AT CAPE CANAVERAL WOULD HAVE TAKEN PLACE.

"VI

"THE LOWER COURT ERRED IN HOLDING THAT IT WAS ONLY MARIANO CU AND/OR HIS CO-ACCUSED CABRALES WHO HAD EXCLUSIVE ACCESS TO THE BODEGAS AND TOILET OF THE HOUSE AND THAT NOBODY ELSE BUT THEY COULD HAVE PLACED THE INFLAMMABLE MATERIALS IN THEIR HOUSE ON THE NIGHT OF OCTOBER 2, 1953.

"VII

"THE LOWER COURT ERRED IN ACCEPTING AS TRUE THE RESPECTIVE TESTIMONIES OF LT. ANDRES AND RICARDO MENOR WHICH, ASIDE FROM BEING IMPROBABLE, ARE SELF-SERVING AND WITHOUT BENEFIT OF CORROBORATION.

"VIII

"THE LOWER COURT ERRED IN NOT REALIZING THE CONSPICUOUS FACT THAT SAMONTE BELIEVED IN THE INNOCENCE OF THE ACCUSED, HENCE HIS UTTER LACK OF CONCERN IN THE SUCCESS OF THE PROSECUTION SINCE THE INVESTIGATION UP TO THE TRIAL.

"IX

"THE LOWER COURT ERRED IN NOT FINDING ANGEL PICHAY AND FRED FARIÑAS RESPONSIBLE IN CONCOCTING THE FIRE DRAMA DESIGNED AS A FRAME UP AGAINST THE DEFENDANT CU.

"X

"THE LOWER COURT ERRED IN NOT HOLDING THAT, GRANTING FOR THE SAKE OF ARGUMENT THAT CABRALES IS GUILTY OF THE CRIME, THERE IS NO COMPETENT EVIDENCE AGAINST MARIANO CU.

"XI

"THE LOWER COURT ERRED IN NOT GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF MARIANO CU.

"XII

"THE LOWER COURT ERRED IN NOT DIS-MISSING THE INFORMATION ON THE GROUND THAT THE PROSECUTION FAILED TO ESTABLISH EVEN A PRIMA FACIE CASE AGAINST THE ACCUSED."

2. In the brief signed by Atty. Arturo A. Romero:

"I

"THE TRIAL COURT ERRED IN ADMITTING THE ALLEGED ADMISSIONS OF DEFENDANT ANTONIO CABRALES MADE BEFORE THE CHIEF OF POLICE (EXH. 'FF') AND LT. JUAN ADRES (PC) AND HIS ALLEGED EXTRA-JUDICIAL CONFESSION (EXH. 'EE') AND IN CONSIDERING THE SAME AGAINST DEFENDANT MARIANO CU.

"II

"THE TRIAL COURT ERRED IN BELIEVING AND GIVING SO MUCH PROBATIVE VALUE TO THE INCREDIBLE AND PERJURED TESTIMONIES OF LT. JUAN ANDRES, RICARDO MENOR, JUSTO TEJADA AND JESUS ANGELES.

"III

"THE TRIAL COURT ERRED IN HOLDING THAT SUFFICIENT EVIDENCE OF CONSPIRACY WAS ESTABLISHED BY THE FOLLOWING CIRCUMSTANTIAL EVIDENCE: THE OVER-INSURANCE OF CU'S HOUSE AND THE INSURANCE OF JUNKS IN BOXES IN HIS BODEGAS UNDER HIS HOUSE; HIS VISIT TO THE HOUSE OF MENOR WAS FOR THE PURPOSE OF SURVEYING IT; POISONING OF MENOR'S DOG; MRS. CU'S VISIT TO MENOR FOR A PUPPY AND THE BRINGING OF INFLAMMABLE OBJECTS TO HIS BODEGA.

"IV

"THE TRIAL COURT ERRED IN CONCLUDING AND TAKING AS A PROVEN FACT THAT THE INFLAMMABLE OBJECTS FOUND IN CU'S BODEGA WERE THE SAME AS THOSE INFLAMMABLE OBJECTS FOUND IN MENOR'S KITCHEN.

"V

"THE TRIAL COURT ERRED IN CONCLUDING AND/OR TAKING AS A PROVEN FACT THAT THE 'TELEGRAMS MRS. CU SENT TO HER ACCUSED HUSBAND AND THE TELEGRAMS SENT BY THE ACCUSED MARIANO CU TO HIS WIFE ARE CODED INFORMATION ABOUT THE RESULT OF THE FIRE.'

"VI

"THE TRIAL COURT ERRED IN CONCLUDING AS A PROVEN FACT THAT BEFORE OCTOBER 2, 1953, DEFENDANT CU 'HAD TRANSFERRED 100 BOXES OF WINES TO THE CAMARIN OF HIS MOTHER-IN-LAW.'

"VII

"THE TRIAL COURT ERRED IN CONVICTING THE APPELLANTS WHERE THE PROSECUTION FAILED TO PROVE THE 'CORPUS DELICTI.' "

We have carefully read both briefs and minutely scrutinized and weighed the testimonies on record of all the witnesses[2] as well as the exhibits of prosecution and defense[3] in the light of these assigned errors, and it is Our considered conclusion that, except as to some unessential details, the trial court's findings are basically correct and that, on the whole, the evidence of the State proves the guilt of appellants beyond reasonable doubt.

Read together, the errors assigned by appellants constitute an attack on the credibility of the prosecution witnesses. The unbending rule of jurisprudence is that matters of credibility are adduced basically to the trial judge who is always in a better position than the appellate court to appreciate the weight and evidentiary value of the testimonies of witnesses who have personally appeared before them. Moreover, in this particular case, We have not found any of the points raised in appellants' brief sufficiently persuasive to cause Us to reverse the corresponding conclusions of His Honor. The contention of appellants to the effect that the testimonies of Lt. Andres and Ricardo Menor are highly improbable and incredible and that actually no fire of incendiary character

had occurred is obviously untenable in the face of the confession of appellant Antonio Cabrales and the result of the ocular inspection conducted by the trial court.

Indeed, this is one instance where the commendable ex-haustive and comprehensive analyses of the evidence and the relevant circumstances respectively proved by every bit thereof by the trial court, as demonstrated in the portions of its decision aforequoted, may well be adopted in toto by this Court, and We do so. And We hold in consequence that in the main the judgment appealed from should be affirmed. The issues raised and the quality and weight of the evidence on record do not require further elucidation, as they do not call for any new doctrinal ruling.

We note, however, that the court a quo appreciated evident premeditation as an aggravating circumstance. This is not correct. As "in robbery, theft, estafa and analogous offenses where the accused would execute the preconceived act only after having thought out the method by which he intends to accomplish it", (The Revised Penal Code by Aquino, Vol. I, Book I, pp. 340-341, 1976 ed.) in arson, evident premeditation is inherent.

ACCORDINGLY, with the sole modification that the holding of His Honor to the effect that the subject offense was committed with the aggravating circumstance of evident premeditation should be eliminated, which elimination will not, however, affect the correctness of the penalty imposed by the trial judge, the herein appealed decision is affirmed, with costs against appellants.

Fernando, (Chairman), Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Considering the gravity of the offense herein involved and the penalty imposed upon appellants by the trial judge, as an act of liberality, the Court opts to overlook this rather odd practice, there being no objection thereto on the part of the Solicitor General, who, apparently finding no better alternative did not take the trouble of discussing the appellants' assignments of errors specifically and separately, thereby making the study of the case by the Court more difficult and time consuming.

[2] These are found in 1,545 pages of transcript of stenographic notes.

[3] There are 45 main exhibits (excluding subsidiaries) of the government, Exhibits A to RR and XX and almost 300 exhibits of the accused, Exhibits 1 to 43-A with subsidiary markings.

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