

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PEDRO LABRA, DEFENDANT AND APPELLANT.***G.R. No. L-857. October 19, 1948*

Ponente: PERFECTO, J.

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In the morning of September 4, 1944, a sailboat bound from Leyte to Cebu, upon nearing the town of Catmon, Cebu, was stopped by a Japanese transport and boarded by three Japanese and appellant. Charging Concepcion Erado, who was in the sailboat being the owner of the cargo therein, with connection to the guerrillas and with the fact that her business was actually run by a guerrilla, appellant maltreated her and the crew of the sailboat, and took away the money and jewelry of Concepcion and her daughter Erlinda. Mother, daughter and crew were transferred to the Japanese vessel, where they were tied and further maltreated and brought to the Japanese Navy Military Headquarters at the pier, where they were investigated by appellant. After three days of detention, they were released. The testimonies of Concepcion Erado and Erlinda Erado on these facts offer no doubt and appear to be in some way corroborated by Susana Singson, appellant's witness.

On August 16, 1944, at about 7:30 in the evening, appellant, accompanied by several Japanese soldiers, all armed, entered the house of Arcadio Abella at 47, Katipunan Street, Cebu City, where the owner and his family were eating their dinner at the time in the first floor. The wife and children of Arcadio, including Dolores Abella, were ordered to go upstairs, where they were maltreated by the Japanese. Appellant questioned Arcadio regarding the whereabouts of his son Tomas, a sergeant in the guerrilla under the command of Lieutenant Espiritu, and demanded for the gun which had allegedly been given to Arcadio by said Tomas. Arcadio denied any knowledge of the facts asked. Appellant maltreated him, beating him up with a pestle, and Arcadio's cries of pain were heard by the members of the family upstairs. Arcadio suffered wounds and injuries, which took three months to heal. The testimonies of Arcadio and Dolores Abella proved conclusively these facts.

A Japanese train and truck had a few days before been ambushed and hand grenades thrown at them and on July 29, 1944, 600 Japanese soldiers, accompanied by some thirty Filipinos, one of whom was appellant, raided Mambaling, a barrio of Cebu City, and arrested about five hundred inhabitants and herded them into the barrio chapel, where they were investigated and tortured to compel them to reveal and surrender their firearms.

On the same day, in another place, Duljo, Cebu City, Antonio de la Cerna, together with eighteen other persons, was arrested and also brought to the Mambaling chapel, where they were also questioned and tortured for the same reasons as those arrested in Hamballng. In the afternoon of the same day, all those arrested were brought to the schoolhouse adjoining Basak barrio. They were questioned and tortured again. The next morning about twenty five of them, including Tereso Sanchez and Antohio de la Cerna, were brought to Toong mountain. They were brought to a place where they were shot, except De la Cerna who, upon his promise that he would surrender his firearm which he had hidden in his house, was spared and subsequently released. Tereso Sanchez, upon being shot, lost consciousness. On regaining it, he found himself lying among dead people, numbering around 17, and discovered that he had been shot at the back of his neck, the bullet coming out of his left eye, which had become

totally blind, and that he had several wounds in the body.

The only fact that can be considered to have been proved in accordance with the two-witness rule as regards appellant's participation in the Mambaling incident is that appellant was seen by both Sanchez and De la Cerna in Mambaling armed with a .45 caliber revolver accompanying the Japanese soldiers and awaiting their orders. The question as to whether this single fact is enough to convict appellant on count four of the information need not be decided in view of our conclusion that count three, regarding the Erado incident, and five, regarding the Abella incident, have been conclusively proved, each one of them enough to convict appellant.

Appellant tried to defend himself practically with mere negations that are unconvincing. He made an attempt to show the existence of another Pedro Labra, undoubtedly, for the purpose of creating the impression that the witnesses for the prosecution might have mistaken him with the person carrying his homonym, but the attempt is too weak to be of any probatory value. His insinuation cannot overthrow the positive testimonies of the witnesses for the prosecution pointing to him as the real author of the acts in question. The witnesses presented by appellant offered him not much help.

The lower court found appellant guilty of treason and sentenced him to suffer the penalty of reclusion perpetua and to pay a fine of P2,000 and the costs. The sentence being supported by the evidence and in accordance with Art. 114 of the Revised Penal Code, is affirmed, with costs against appellant.

Moran, C. J., Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

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