

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO TAGARA ALIAS JOSE TAGARA AND EDUARDO TAGARA, DEFENDANTS-APPELLANTS.

G.R. Nos. L-27677-8-9. January 22, 1988

Ponente: YAP, J.

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YAP, J.:

Eduardo Tagara and Rogelio Tagara, alias Jose Tagara, were charged in three separate informations, dated June 21, 1965, with Double Murder (Criminal Case No. 3177), Robbery (Criminal Case No. 3178) and Arson (Criminal Case No. 3179) before the then Court of First Instance of Tarlac, Fourth Judicial District, Branch I.

Upon arraignment, the accused Rogelio Tagara entered a plea of not guilty in each of the informations, while Eduardo Tagara pleaded guilty in Criminal Case No. 3177 (for Double Murder) and not guilty in Criminal Cases Nos. 3178 and 3179. On September 15, 1965, the trial court rendered a separate decision with respect to Eduardo Tagara in Criminal Case No. 3177 sentencing him to reclusion perpetua, with accessory penalties, and to indemnify the heirs of the spouses in the amount of P6,000.00. On September 22, 1965, Eduardo Tagara changed his plea of not guilty to “guilty” in Criminal Case No. 3178 (for Robbery) and was sentenced on October 18, 1965 to an indeterminate penalty of one (1) year as minimum to three years as maximum, to indemnify the offended party Leonato Gabriel in the amount of P2,000.00, plus costs, with subsidiary imprisonment in case of insolvency which, however, shall not exceed one third of the principal penalty imposed.

The trial court proceeded to hear Criminal Case Nos. 3177 and 3178 with respect to the accused Rogelio Tagara only, and Criminal Case No. 3179 with respect to the two accused. Inasmuch as these cases were intimately connected with one another, they were tried jointly, with the agreement of the prosecution and the defense.

The version of the prosecution, as summarized in the People's Brief, is as follows:

"Rogelio Tagara and Eduardo Tagara are brothers and residents of barrio Sierra, La Paz, Tarlac. They left Sierra in February, 1965, and went to Mabalacat, Pampanga, to cut sugar cane. On May 14, 1965, the brothers returned to barrio Sierra and occupied the same house where they have stayed previously which house belongs to their elder brother, Jaime Tagara (pp. 99, 100 & 101, t.s.n., Jan. 27, 1966).

On May 18, 1965, in the afternoon, Catalino Tolentino saw Rogelio Tagara and Eduardo Tagara pass behind his yard in barrio Sierra, La Paz, Tarlac, and going around the lot of Leonato Gabriel, a resident of the same place. On May 19, 1965, Tolentino again saw Rogelio Tagara and Eduardo Tagara reconnoitering around the yard of Leonato Gabriel (pp. 150 & 151, t.s.n., Feb. 15, 1966).

In the evening of May 19, 1965, Rogelio Tagara and Eduardo Tagara went to the house of Fidel Lozano, their neighbor in barrio Sierra. Eduardo went up the house to roll some cigarettes, while Rogelio stayed downstairs seated on a bench in front of Lozano's house (pp. 102 & 103, t.s.n., id.). After having rolled some cigarettes, Eduardo and Rogelio left the house of Lozano.

Sometime after they had left, Lozano heard shouts for help. Lozano went to the direction where he heard the shouts and he saw the house of the spouses Leonato Gabriel and Solita Yadao on fire (pp. 103, 107 & 108, t.s.n., id.) When Lozano reached the place, there were already many people there but they could not go near because of the heat. That same evening, the Chief of Police of La Paz and some of his policemen went to barrio Sierra to investigate. Among the barrio people present at the scene of the fire, Rogelio Tagara and Eduardo Tagara could not be found, and were never seen in the barrio again (pp. 108 & 109, t.s.n., id.). The police urged the people present at the scene of the fire to put out the fire but the people could not do anything because of the intense heat; so the house burned down completely and collapsed (pp. 111 & 112, t.s.n., id.).

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The Chief of Police of La Paz, stayed at the scene of the fire the whole evening of May 19, 1965, and the whole day the following day (p. 216, t.s.n., Mar. 16, 1966). While still trying to douse the burning house with water, the police discovered the charred bodies of two persons on the first floor. Upon the discovery, the Chief of Police sent one of his men to call the Mayor, the Municipal Judge, the Municipal Health Officer at La Paz, Tarlac. He also communicated with the commanding officer of the PC at Concepcion, Tarlac, requesting the latter to help in the investigation of the case (pp. 216 & 217, t.s.n., id.).

The municipal officials of La Paz arrived at the scene of the fire at about 7:00 in the morning of May 20, 1965. Captain Palomares of the PC also arrived at the scene that same morning. In the investigation conducted by the officials at the scene of the fire, they were informed by the barrio official of Sierra that the two charred bodies found in the burnt house were those of the spouses Leonato Garcia and Solita Yadao (pp. 218 & 219, t.s.n., id.).

The Chief of Police also sought the help of the National Bureau of Investigation and on May 22, 1965, the NBI agents went to La Paz, Tarlac examined and photographed the mortal remains of the charred bodies (pp. 220 & 221, t.s.n., id.).

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The Chief of Police of La Paz in his investigation inquired from the barrio residents of Sierra the possible motive for the burning of the house of Leonato Gabriel. He was informed by the barrio captain that the Tagara brothers had a misunderstanding with Leonato, in connection with a farm leased by the brothers Tagara to the former. Informed about the misunderstanding, the Chief of Police sent one of his men to look for the Tagaras in barrio Sierra, as he was also informed that they (Tagaras) were in the barrio on the afternoon of May 19, 1965 (pp. 222 & 223, t.s.n., March 16, 1966).

The policemen scoured the entire barrio, but the Tagaras could not be found. The Chief of Police also sent his men and some PC men, together with Fidel Lozano, to look for the Tagara brothers in Paniqui, Tarlac, but they could not also be found there (pp. 223 & 224, t.s.n., id.).

While PC Corporal Jacinto Parcaiso of the PC detachment in barrio Villa, Aglipay, Tarlac and his companions were on patrol on May 22, 1965 in Sitio Bangabanga of barrio Villa Aglipay, he was informed by the barrio officials that the barrio folks saw unidentified persons carrying firearms (p. 294, t.s.n., May 18, 1966). Upon receiving this information, Cpl. Parcaiso and a companion proceeded to the place where the unidentified men with firearms were reportedly seen and upon reaching the place, the PC patrol saw that two persons had already been apprehended by the barrio folks and some members of the barrio council in barrio Lawac, Tarlac, Tarlac (pp. 295 & 296, t.s.n., id.).

The two unidentified men turned out to be the accused Rogelio Tagara and Eduardo Tagara.

Col. Parcaiso investigated the two and inquired from them why they were carrying rifles and if the firearms belonged to them. Rogelio and Eduardo answered in the affirmative, adding that the two rifles, Exhs. "M" and "N", they both carried were already taken by the barrio people (pp. 298 & 299, t.s.n., id.). Asked by Cpl.

Parcaiso where they got the firearms, Eduardo replied that while they were pasturing carabaos near a creek in Paniqui, Tarlac, they saw the rifles hanging on a tree and they took them. Parcaiso then searched the pockets of Eduardo and Rogelio and he found a diary bearing the name of Mrs. Yadao Gabriel (Exh. "O") in the pocket of Rogelio (p. 304, t.s.n., id.). The Tagara brothers were then brought to the PC headquarters in Camp Macabulos, Tarlac (p. 306, t.s.n., id.).

At the Camp, the Tagaras were interrogated and they told the PC investigators that there were other articles they had taken from their victims in Sierra, La Paz, Tarlac, that were left hidden in barrio Lawac where they were apprehended by the barrio people (pp. 310 & 311, t.s.n., id.).

Cpl. Parcaiso went back to barrio Lawac to recover the articles and he was told by barrio councilman Tanguines that the articles were already in his (Tanguines) possession (pp. 312 & 313, t.s.n., id.). He explained that the barrio folks who apprehended the Tagara brothers confiscated the articles and had turned them over to him (pp. 314 & 315, t.s.n., id.).

The articles recovered by Corporal Parcaiso consisted of 1 necklace, 1 Elgin lady's watch, 1 Waltham men's watch, 1 small transistor radio, 1 bracelet marked "Leo B. Gabriel," 2 small batteries, 2 Parker fountain pens with the name of Leo Gabriel and Lolita Yadao engraved thereon, paper money and coins in different denominations in the amount of P3.19, two rifles with magazines with 3 bullets inside, 1 box containing 22 caliber bullets, 1 round mirror, and a bunch of keys (pp. 315 & 316, id.).

On May 23, 1965, PC Sgt. Andaya brought Eduardo Tagara and Rogelio Tagara to the municipal building of La Paz, Tarlac, where they were interrogated by the Chief of Police, and their statements were taken down (pp. 225, 226 & 227, t.s.n., id.).

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Eduardo Tagara and Rogelio Tagara were then brought to the Municipal Judge of La Paz, Tarlac, Mr. Jose Escalona. Judge Escalona first read the statement of Eduardo Tagara, Exhibits C, C-1, C-2, C-3 and C-4 and asked the latter to tell him whether there is anything stated which is not true (p. 14, t.s.n., Dec. 14, 1965). After Eduardo answered that what is stated in the statement is true, Judge Escalona asked him to raise his right hand to swear under oath (p. 15, t.s.n., id.). The judge then asked Eduardo to affix his thumbmark to his statement since he (Eduardo) does not know how to write (p. 17, t.s.n., id.).

The statement of Rogelio Tagara (Exhs. D, D-1, D-2, D-3, D-4) was then read by Judge Escalona to the former. Judge Escalona asked Rogelio whether there is anything in his (Rogelio) statement that is not true and after Rogelio answered that everything in the statement is true, Judge Escalona asked him to swear to its truth and to sign it (pp. 24, 25, 26 and 27, t.s.n., id.).^[1]

The version given by the defense at the trial, which was held after Eduardo Tagara had pleaded guilty and was sentenced for the crimes of murder and robbery, was as follows:

The accused Rogelio Tagara was not with his brother Eduardo Tagara on May 19, 1965. He was with Fidel Lozano the whole day of May 19th, helping the latter in roofing his house from 7:30 a.m. to 12:00 noon, and in the afternoon up to 6:00 p.m. helping clean the latter's fishpond. Eduardo Tagara, on the other hand, went to the field on that day, guarding it from morning till 4:00 p.m. because the spouses Leonato Gabriel and Solita Yadao were having the land plowed. The said land was mortgaged to the spouses for P1 ,030 .00 and when Jaime Tagara, the brother of Eduardo and Rogelio, tried to redeem the land from the spouses the year before, the latter refused to allow such redemption unless Jaime would pay £6,700.00. The land was inherited by the Tagara brothers from their parents.

At 4:00 p.m. on May 19th, Eduardo Tagara went to the house of the aforesaid spouses. He found Leonato Gabriel alone. They talked about the land, and Leonato Gabriel told Eduardo that he could not get back the land anymore. A heated altercation ensued between the two and Leonato told Eduardo that he was going to kill

him and attempted to get hold of a gun (Exh. M) hanging on a wall. Eduardo got a piece of wood from a window and struck Leonato twice after which they grappled with each other. They reached a small table which tumbled down and a hunting knife fell. They fought for the possession of the knife and unfortunately Eduardo stabbed Leonato and left him frustrated.

The wife Solita Yadao arrived and lighted a colman lamp. She noticed Eduardo inside the house and she shouted and at the same time tried to get a gun from a corner (Exh. N). Eduardo hit her with the longer gun (Exh. M) on the right temple and she fell down. Eduardo got a certain bag on top of a table and got the contents of a piggy bank.

Eduardo left the house of the spouses running and proceeded to their house. He placed the guns and the bag beside a guava tree in their yard and went to wash his hands full of blood at a pump well where he reached his brother Rogelio cleaning his body and hands (pp. 798-811, TSN, Nov. 22, 1966; pp. 814-820, TSN, Dec. 9, 1966).

Rogelio noticed that Eduardo was angry with his face and eyes reddish. After washing his hands, Eduardo left towards their house and Rogelio followed. Eduardo proceeded to the yard while Rogelio went up the house to get dressed for the purpose of going to the house of Irene Liquiran where he was invited to take his supper. When Rogelio was already at the gate of the house of Irene Liquiran, he was called by Eduardo and told him to go back. Because Rogelio insisted in proceeding to the house of Irene Liquiran, Eduardo came rushing and pulled him and dragged him to their house. Rogelio felt angry with his brother because he did not allow him to go.

Eduardo went down the house and when he came back he was bringing two guns. To his surprise, Rogelio was ordered to wrap their clothes. He inquired where his brother got those guns and the latter told him he killed the spouses Leonato Gabriel and Solita Yadao. Rogelio was dumbfounded and he became afraid of his brother.

Eduardo ordered his brother to go with him and follow him. He pulled his brother and ran away until 5:00 a.m. on May 20. They slept at a sugar cane plantation and woke up at 11:00 a.m. When Rogelio woke up, he noticed his brother looked frightful, his eyes reddening and sharpened and he was always alert. Rogelio asked his brother why he killed the spouses and the latter told him, "Do not ask me questions like that or I will take you next." Rogelio became very much afraid of his brother.

They left the sugar cane plantation at 5:00 p.m. on May 20 and walked the whole night passing through the fields, group of trees and creeks until the following morning of May 21. Feeling hungry they looked for fruits. They proceeded walking through the mountains up to 1:00 p.m. in May 21.

At this time they were at Bo. Lawacamulag, about two kilometers from Bo. Sula where Eduardo intended to take his brother to their sister. The barrio people heard the shots fired by Eduardo in shooting birds for their food and they proceeded to their place with bolos, spears and guns and found them hiding. Because Rogelio became afraid for the barrio people might harm them he stood up and surrendered. Eduardo also surrendered.

They were brought to Camp Macabulos at about 4:00 p.m. They were investigated by the PC before whom Eduardo admitted having killed the spouses. Both were maltreated by the PC because the PC do not believe that Eduardo was alone in killing the spouses and they tried to force the accused to admit that they both killed the spouses. Eduardo insisted that he was alone in killing the spouses and Rogelio insisted that he does not know about the killing of the spouses.

After two days, they were taken to La Paz, Tarlac and detained at the PC headquarters near the municipal building. The accused were maltreated and forced to admit that they killed the spouses.

At about 6:00 p.m., they were brought to the municipal jail of La Paz and at 7:00 p.m., they were taken out of their cell and brought upstairs where they were maltreated until the following morning.

Then, at about 8:00 p.m., they were again brought upstairs where they were maltreated by the PC soldiers until 4:00 a.m. the following morning. At 6:00 p.m., they were brought again to the PC headquarters where they were maltreated. Despite continuous maltreatment, Eduardo insisted that he was alone in killing the spouses and Rogelio insisted that he does not know about the killing.

At about 5:00 p.m. the following day, PC Sgt. Andaya and a companion made the accused sign their confessions, Exhibits C and D, telling them that after they signed the same, Eduardo would be transferred to the Tarlac Provincial Jail and Rogelio would be released. The accused signed said exhibits not knowing their contents because Sgt. Andaya told them that they would be maltreated again if they would not sign.[2]

The trial court gave credence to the version of the prosecution and convicted the accused. The decretal portion of its decision, dated April 3, 1967, reads as follows:

"WHEREFORE, the Court renders judgment in the above-entitled cases as follows:

(a) In Criminal Case No. 3177, the Court finds the accused Rogelio Tagara alias Jose Tagara guilty beyond reasonable doubt of two crimes of murder defined and penalized under Article 248 of the Revised Penal Code, and hereby sentences him to suffer the penalty of two reclusion perpetuas, to indemnify jointly and severally with his co-accused Eduardo Tagara the heirs of the deceased Leonato Gabriel and Solita Yadao in the sum of P6,000.00 each, without subsidiary imprisonment in case of insolvency, and to pay one-half (1/2) of the costs.

(b) In Criminal Case No. 3178, the accused Rogelio Tagara alias Jose Tagara is found guilty beyond reasonable doubt of the crime of theft defined and penalized under Art. 309, par. 3, of the Revised Penal Code, and hereby sentences him to a prison term ranging from three (3) months and eleven (11) days of arresto mayor, as minimum, to one (1) year, eight (8) months, and twenty-one (21) days of prision correccional, as maximum, and to pay one-half (1/2) of the costs. No pronouncement as to indemnity is made inasmuch as the articles stolen have been recovered.

(c) In Criminal Case No. 3179, the Court finds the accused Rogelio Tagara alias Jose Tagara and Eduardo Tagara guilty beyond reasonable doubt of the crime of arson defined and penalized under Art. 321, par. 2 (b) of the Revised Penal Code, and hereby sentences each of them to a prison term ranging from eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as maximum, to indemnify, jointly and severally, the heirs of the deceased spouses Leonato Gabriel and Solita Yadao in the sum of P23,000.00, without subsidiary imprisonment in case of insolvency, and to pay the costs."

From the decision, the accused Rogelio Tagara and Eduardo Tagara appealed, assigning three alleged errors committed by the trial court as follows:

I

THE TRIAL COURT ERRED IN FINDING ROGELIO TAGARA GUILTY OF THE CRIME CHARGED.

II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO EXTRA- JUDICIAL CONFESSIONS OF THE ACCUSED, EXHIBITS 'C' AND 'D'.

III

THE TRIAL COURT ERRED IN RULING THAT NO SUBSTANTIAL EVIDENCE ON MALTREATMENT OF THE ACCUSED PROVED.

The appeal is devoid of merit. We find no reason to disturb the findings of the court a quo regarding the voluntariness of the extrajudicial confessions of Eduardo Tagara and Rogelio Tagara (Exhibits "C" and "D",

respectively). The abundance of details in the two interlocking confessions, which could have been known only to the two appellants and which could not have been possibly supplied nor concocted by the investigators who received said statements during the investigation, is a strong and persuasive indication that those statements were given freely and voluntarily.

Moreover, when both appellants appeared before Municipal Judge Escalona, they did not complain to him of any maltreatment, nor reported the alleged violence and intimidation employed by the investigators on them in order to extract their confessions. They swore to the truthfulness of their confessions before said official.

The written confessions of the accused were taken in the office of the Mayor of La Paz, the doors and windows of which were open and many people were present. Under such circumstances, it is highly improbable that the accused could have been maltreated by the P.C. soldiers and the police officers. The alleged maltreatment, if true, would have left serious injuries in the different parts of their bodies, including their faces, which would have been very noticeable and visible when they appeared before the Municipal Judge. Judge Escalona, however, did not notice anything unusual in their physical appearance and Dr. Felino Villa who examined the persons of both appellants on May 25, 1965, the day following the execution of the two confessions, did not find any swellings or contusions in their bodies.

Apart from the extrajudicial confessions, circumstantial evidence strongly point to the participation and complicity of appellant Rogelio Tagara in the crime charged. Firstly, he was found carrying, together with his co-accused Eduardo Tagara, one of the two rifles owned by the deceased Leonato Gabriel when both accused were apprehended by the barrio people of Lawacamulag, Tarlac, Tarlac, and the PC patrol. Secondly, when appellant was searched by Cpl. Parcaiso, the diary of Mrs. Solita Yadao was found in one of the pockets of appellant Rogelio Tagara. Thirdly, the evidence shows that appellant joined his co-accused Eduardo Tagara in fleeing from the barrio where the crime was committed. His explanation that he did so because he was afraid of his brother Eduardo is too flimsy to be believed and is unworthy of credence. Finally, the interlocking confessions of appellants Rogelio and Eduardo Tagara, which were executed without any collusion, are replete with material and essential details as to the participation of each accused in the crimes charged. These circumstances in our view confirm and positively establish the guilt of the appellants beyond reasonable doubt.

Accordingly, the decision appealed from is hereby affirmed in toto:

SO ORDERED

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

[1] Appellee's Brief, pp. 3-14.

[2] See Appellants' Brief, pp. 4-8.

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