

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAMON NARCISO Y CONTRERAS, ET AL., DEFENDANTS. RUFINO
PEÑA Y GUEVARRA, DEFENDANT ON REVIEW.**

G.R. No. L-24484. May 28, 1968

Ponente: ANGELES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7c29380ae062/>

ANGELES, J.:

This is an automatic review of Criminal Case No. 5871 of the Court of First Instance of Manila entitled "People of the Philippines versus Ramon Narciso y Contreras, Elias Gloria y Bernardino, Francisco Celso y Garcia and Rufino Peña y Guevarra", pursuant to section 9, Rule 122 of the Rules of Court (sec. 9, Rule 118 of the old Rules), one of the accused therein, Rufino Peña y Guevarra, having been sentenced by the trial court to the supreme penalty of "Death".

The above-named accused were prosecuted in the court a quo for the crime of murder, the pertinent information for which, filed on July 12, 1961, alleged as follows:

"That on or about the 10th day of July, 1961, in the City of Manila, Philippines, the said accused, being all detained prisoners, did then and there willfully, unlawfully and feloniously, with intent to kill, with evident premeditation and treachery, and with the use of superior strength, attack, assault and hit with pieces of wood Roberto Monreal y Calbario, another detained prisoner, several times on different parts of his body, thereby inflicting upon said Roberto Monreal y Calbario mortal physical injuries which were the direct and immediate cause of his death.

"Contrary to law."

All the said accused pleaded "not guilty" to the charge when they were arraigned on July 17, 1961. Thereafter, the prosecution presented its evidence consisting of the testimonies of: (a) Dr. Mariano B. Lima, Chief of the Medico-Legal Section, MPD; (b) Bernardo Villalon, a prisoner serving sentence for robbery in the City Jail of Manila; (c) Pat. Crispin Umaging, MPD; (d) Servillano N. David, Chemical Analyst, MPD; (e) Det. Cpl. Carlos Martin, Jr., MPD; (f) Det. Sgt. Herminio Clemente, MPD; and (g) Pat. Avelino Leaño, MPD. Various exhibits, identified and marked during the trial, were also offered in evidence, among them: Exh. B, the necropsy report; Exh. H-1, a piece of wood stained with blood; Exh. I, a blanket with human blood stains; Exh. J, the extra-judicial statement of accused Elias Gloria; Exh. K, the extra-judicial statement of accused Rufino Peña; Exh. L, the extra-judicial statement of accused Ra-mon Narciso; Exh. M, the extra-judicial statement of accused Francisco Celso; and Exh. N, the extra-judicial statement of prisoner Bernardo Villalon, the eyewitness to the killing of the victim inside Cell 2-A of the city jail who testified for the People. All the aforesaid extra-judicial statements were objected to by the defense as "hearsay evidence", but were, nevertheless, admitted by the trial court.

Soon after the prosecution rested its case, accused Ramon Narciso filed a Motion to Dismiss dated June 1, 1964, followed by accused Francisco Celso who also submitted his own Motion To Dismiss dated June 4, 1964. In an order dated August 7, 1964, the trial court granted the motion of Francis-co Celso as against whom the case was

dismissed for insufficiency of evidence, but the motion to dis-miss filed by Ramon Narciso was denied in the same order. The accused Elias Gloria subsequently escaped from the New Bilibid Prisons in Muntinlupa and has since then remained at large; so, the case as against him had to be suspended. Trial continued and evidence was presented for the defense of Rufino Peña and Ramon Narciso; but the latter, on February 10, 1965, died of "asphyxial cardio-respiratory failure" (bangungot), and the case was likewise dismissed as against him. The case was, therefore, submitted for decision on February 16, 1965, as against the only remaining accused, Rufino Peña, who, as earlier stated, now stands convicted of the crime of murder.

Our own examination of the record of the case revealed the circumstances surrounding the killing of Roberto Monreal inside Cell 2-A, City Jail of Manila on July 10, 1961, as testified to by the lone eyewitness, Bernardo Villalon, who was serving sentence in the same cell of the said jail at the time. The gist of his testimony follows, to wit:

About an hour or so before midnight in the evening of July 10, 1961, Roberto Monreal was lying on his belly on a mat on the cement floor of Cell 2-A, City Jail of Manila. The count of prisoners inside had just been taken. In that cell, measuring about 7 by 15 meters, were some 80 inmates. The cots were not enough for them and some had to sleep on mats on the floor. The place was illuminated, for the big bulbs were on. Some six (6) meters, from the place where Monreal was abed on the cement floor and about five (5) meters from Bernardo Villalon ten (the witness) who was seated on top of a double-deck bed were the accused Elias Gloria and Rufino Peña; they (Gloria and Peña) talked in whispers for about two (2) minutes and Rufino Peña pointed to Monreal with his left thumb. Monreal who was lying on the floor (nakadapa) was awake, but he did not see Elias Gloria and Rufino Peña as they talked because there were beds between them, although the latter could see Monreal. Thereafter, Gloria and Peña left walking towards the end of the cell. Soon, there was a relief of guards. Bernardo Villalon left the double-deck bed where he was after about five minutes and laid himself on the cement floor beside Roberto Monreal. He slept, about one (1) meter distant from the latter.

At about 11:15, shortly after he fell asleep, Bernardo Villalon was awakened by some noise. He got up in a sitting position and saw that Roberto Monreal who was beside him, was being beaten with a piece of wood by Elias Gloria who was standing near. Villalon moved aside, still in his sitting position, farther away from Monreal. Elias Gloria hit Monreal with the piece of wood a number of times, about three (3) times; and each time he delivered a blow, Elias Gloria cursed at the victim: "Ikaw, Bahala Ka". Blood was seen as Roberto Monreal lay prostrate on the cement floor, motionless, his body half-covered with a blanket with the head and right arm exposed. Elias Gloria had companions with him at the time he was beating Monreal but Villalon who was near failed to recognize them nor was he able to ascertain their number for there was already a commotion inside. However, nobody was near the place where Elias Gloria was beating Roberto Monreal; the other inmates were all far. After the beating, Elias Gloria dropped the piece of wood and left the place. Bernardo Villalon then stood and ran away.

Bernardo Villalon testified further that he was confined in the city jail only on May 16, 1961, but he has come to know of the existence of gangs or organizations of inmates there - the "OXO", the "Sigue-Sigue" and the "Bahala Na". He knows the victim, Roberto Monreal, who was with him for three (3) days inside Cell 2. They were later transferred together to Cell 2-A. They have stayed together since then, during the three days that they were confined in Cell 2-A immediately preceding the night of the incident. The accused are also known to Bernardo Villalon because they use to eat together. He knows them to be members of the Sigue-Sigue Gang, while the victim was affiliated with the Bahala Na Gang during his lifetime. Bernardo Villalon was not aware of the existing feud between these organizations or "gangs", but he learned about it on that very night of the incident because at about 8:00 or 9:00 o'clock that very same evening there was trouble inside Cell 2, just beside Cell 2-A, where Arturo Forcuna @ Boy Golden (a "Bahala Na" gang member) and some of his companions in Cell 2, were

beaten by members of the Sigue-Sigue Gang. Boy Golden was transferred to the cell bodega after the incident. He admitted though that he does not know the cause of the gang rivalry. He also confessed that he has tattoo marks on the parts of his body symbolizing membership in the Bahala Na Gang, but he explained that he was forced to join the organization after the killing of Roberto Monreal because subsequent thereto "there was no place where I could be put in the City Jail."

Other witnesses for the prosecution testified to the following effect: Soon after the beating, the prison guards came. Four detained prisoners were ordered to carry the victim to a jeep which took Roberto Monreal to the North General Hospital where he was pronounced "dead on arrival". The policemen searched the cell for the objects used in the killing while the desk sergeant notified the Homicide Section of the MPD. Detectives from the Homicide Section arrived later; they conducted an ocular inspection of the scene of the crime, and then took custody of the seven suspects delivered to them by Capt. Natividad along with several pieces of wood found inside the cell and a blood stained blanket. From the City Jail, the seven detention prisoners picked were taken to the Headquarters of the MPD. A verbal investigation ensued wherein inmates Bernardo Villalon and Alfredo de la Rosa pointed to their co-prisoners Elias Gloria, Ramon Narciso, Francisco Celso and Rufino Peña as the persons responsible for the killing of Roberto Monreal, and these persons, when questioned about the incident, admitted their participation in the killing. Thereupon, their individual statements were reduced to writing. Det. Cpl. Carlos Martin, Jr. took the statements of accused Elias Gloria and Rufino Peña (Exh. J & R); Det. Sgt. Herminio Clemente reduced to writing the statements of accused Ramon Narciso and witness Bernardo Villalon (Exh. L & N); while the statement of accused Francis-co Celso (Exh. M) was taken by Pat. Avelino Leano. The investigations were taken simultaneously, although separately and independently. They were conducted in one room at the headquarters of the Manila Police Department in the presence of all the investigators and the answers given to them could be heard by the others. Except the accused Francisco Celso who does not know how to read, and whose statement was first read to him by Det. Cpl. Martin, Jr., all the rest personally read their respective statements after the investigation. The statements were all signed before office hours started the day following the night of the incident. After evaluating the statements, they were forwarded to the Fiscal's Office by the Homicide Section of the MPD.

The medico-legal officer who conducted the autopsy on the body of the victim found two (2) lacerated wounds at the back of the head, any of which could have caused the death of Roberto Monreal. They were fatal because of the fracture of the cranium which caused hemorrhage all over the brain. Other superficial skin lacerations were found above the left eye. He was of the opinion that the wounds could have been caused by a blunt instrument, like a piece of wood. He also ventured to say that the victim could be in a lying position when he was hit by the blunt instrument. The chemist who examined the pieces of wood and the blanket recovered by the police from the scene of the crime testified, on the other hand, that the piece of wood measuring 1-1/2" x 1-1/4" x 23" (Exh. H-1) and the colored blanket (Exh. I) contained human blood, although he was not able to ascertain whether the blood found in said exhibits were those of the victim.

Accused Rufino Peña testified in his own defense. He denied whatever participation in the incident. He repudiated his confession and claimed that he signed his confession after he had been maltreated by the policemen inside the jail. He declared that as soon as he, Elias Gloria, Ramon Narciso and Francisco Celso reached the Homicide Section at the MPD Headquarters, Det. Clemente and his Companions repeatedly asked him if he had anything to do with the killing of Roberto Monreal inside Cell 2-A, to which he consistently answered "that he had nothing to do with it". Dissatisfied with his answer, Det. Clemente and his companions brought him inside the toilet, and once there, Det. Clemente and his companions started giving him blows on different parts of his body - his face, belly, neck and stomach. He remembered that Det. Clemente repeatedly boxed him; one of his companions gave him three (3) blows, while another boxed him four(4) times. They continued boxing him inside the toilet for about

ten minutes, during which the lost consciousness for shout three (3) times, and for which reason he could not exactly remember how many blows they gave him at different parts of his body. But even with such punishment, he told them that he had nothing to do with the clubbing of Monreal. They made him lie down on a long bench inside the toilet after that. One of the companions of Det. Clemente sat on his stomach. They held his hands. A towel was placed over his mouth and nose and then they started pouring 7-Up. The treatment lasted for about five (5) minutes, after which he lost consciousness. He regained his senses after that, but because he could no longer bear the punishment, he asked them to prepare a statement which he would sign. He was given several sheets of paper after that which he signed without knowing their contents. It was about early the next morning following the incident in Cell 2-A when they asked him to sign the statement. He owned the signature appearing on the statement he signed (Exh. K, p. 185, Record), but maintained that the answers to the question appearing thereon were not his. The only questions they repeatedly asked him was "if I know anything about the clubbing of Monreal", and to which question he answered "that I did not have anything to do with it". He could not remember if he was ever asked if he had been maltreated; he could not remember anything because he lost consciousness several times. He did not remember also whether they asked him where he lived at the time, but admitted that the residence, civil status and age appearing in Exh. K were correct. His co-accused and he were neighbors outside jail, and they all belonged to the "Sigue-Sigue Gang" inside the jail.

After the maltreatment in the hands of the police officers at the headquarters of the MPD, he had hearing in Branch 16 of the Court of First Instance of Manila in connection with another case. He could not remember whether it was on July 11, 1961, or not, but during that hearing, he told his parents about the maltreatment they have given him. His parents informed an attorney about it and the latter had him examined the Medico-Legal Section of the Manila Police Department. He could not remember, however, the name of the Doctor who examined him. At that time, his face and body were swollen.

Like his co-accused Ramon Narciso, Rufino Peña also signed his name on a blank sheet of paper in open court which was marked as Exh. 1-Peña (p. 270, Record) in his attempt to show that the signature on Exh. K was made by him under duress.

From the foregoing evidence, the lower court found Rufino Peña guilty of murder for the killing of Roberto Monreal in the night of July 10, 1961, holding that the proof of corpus delicti plus the testimony of the lone eyewitness and the confession of the accused afford more than sufficient bases of conviction. Thus, in its decision dated March 25, 1965, said accused was sentenced to death; to indemnify the heirs of the victim in the sum of P6,000.00; and to pay one-fourth (1/4) of the costs.

The judgment of conviction is here assailed by counsel de oficio appointed to represent the accused Rufino Peña in this review. Said counsel submitted an enlightening brief espousing the cause of the convicted man. The Solicitor General, on the other hand, failed to submit any brief notwithstanding seventeen (17) extensions of time within which to submit one that were requested by him and granted by this Court. Hence, the case of the People was deemed submitted for decision without any brief.

The first important question posed in this review is procedural: whether or not the trial court was right in admitting in evidence, against Rufino Peña his own extra-judicial confession (Exh. K), and the respective extra-judicial confessions (Exhs. J, L and M of his co-accused Elias Gloria, Francisco Celso and Ramon Francisco. It appears that accused Elias Gloria never testified in court in this case because he escaped from confinement in Muntinlupa during the trial and was never arrested thereafter; so with accused Francisco Celso as against whom the case was dismissed by order of the court on August 7, 1964. He neither testified for the prosecution nor for the defense of any of the other accused. It was shown by the prosecution that all the accused were investigated in the same room at the headquarters of the MPD, but there is no showing, since they were

investigated simultaneously and separately by different investigators, that Rufino Peña knew that Elias Gloria and Francisco Celso had implicated him in the killing of Roberto Monreal in their statements, or that Rufino Peña was thereafter informed about the contents of their statements. We have no doubt, therefore, that the extra-judicial statements of Elias Gloria (Exh. J) and Francisco Celso (Exh. M) may not be directly introduced in evidence as proof of specific facts against accused Rufino Peña, in accordance with the well-settled rule that extra-judicial statements of an accused implicating his co-accused may not be utilized against the latter unless repeated in open court.[1] The said extra-judicial confessions of Elias Gloria and Francisco Celso are admissible only against them but not against Rufino Peña as to whom they are hearsay evidence, for the latter never had any opportunity to cross-examine them.[2] Of course, these rules admit of exceptions. Thus, it has been held that where confessions had been made by several accused and there could have been no collusion with reference to them, the fact that the statements are in all material respects identical is confirmatory of the testimony of an accomplice.[3] It will be noted, however, that there is a marked difference between the case of *People vs. Badilla* and the one at bar. In the *Badilla* case, several accused were charged under an information alleging conspiracy, unlike in this case where there was no such allegation in the information and the defense had seasonably objected to the admission of any evidence, including Exhibits J and M, tending to prove conspiracy. But even if conspiracy were properly alleged and proven in this case, the admissibility of Exhibits J and M as against accused Rufino Peña should be qualified. So explained this Court in that case of *People vs. Badilla*:

"In other words, while an extra-judicial declaration of a co-conspirator may not be directly introduced in evidence against another co-conspirator as proof of specific facts, it may nevertheless under certain conditions be taken into consideration as a circumstance in the credibility of the testimony of an accomplice."
[Underscoring Ours]

We find no plausible reason why the principle should not be made to apply to this case where several accused had been charged together of a crime without any allegation of conspiracy; but with the above-quoted authority, there could be no doubt that for purposes of proving the fact that Rufino Peña participated in the killing of Roberto Monreal as declared by his co-accused Elias Gloria and Francisco Celso in their extra-judicial confessions Exhibits J and M, the said statements are objectionable, although the court may consider the fact that the confessions of Rufino Peña and those of his co-accused Elias Gloria and Francisco Celso are, in all material respects, identical as a circumstance in judging the credibility of Rufino Peña's testimony in court for which purpose Exhibits J and M are admissible against the latter. The same rule of qualified admissibility is applicable to the extra-judicial confession of accused Ramon Narciso as against Rufino Peña. Accused Ramon Narciso testified in court for his own defense and was questioned at length about his extra-judicial confession (Exh. L) which he repudiated. He died sometime thereafter; that is why the case as against him had been dismissed, but his said confession was legally before the court with the extra-judicial confessions of all the other accused and We do not think that the trial court erred in taking cognizance of the fact that they were substantially in accord for purposes of passing upon Rufino Peña's credibility. Rufino Peña's own statement (Exh. K), on the other hand, is competent evidence as against him for all purposes under the Rules,[4] provided that its authenticity and voluntariness are beyond question.

This brings Us to the defense of Rufino Peña that his statement Exh. K is involuntary. But first, let us examine the contents of that extra-judicial confession.

It appears that the confession was taken by Det. Cpl. Carlos Martin, Jr. in the presence of Det. Sgt. Herminio Clemente at the headquarters of the MPD in the early morning of July 11, 1961, about seven (7) hours after the commission of the crime or at about 6:20 a.m., to be precise. In that statement, Rufino Peña appears to have declared in Tagalog dialect, substantially as follows: that he was 21 years of age, single, a boy at Cine Esa at Herbosa, Tondo, Manila, and was presently residing in the same place at 440 Herbosa; that he knew why he was

at the headquarters of the MPD at the time, i.e., there was a man they kill-ed the night before inside Cell 2-A; that he knew the person they killed only by face; that they agreed to attack (tirahin) that person because he was a member of the "Bahala Na Gang"; that there was nothing wrong at all being a member of that gang, only there was already feud between the two gangs; that those who agreed to kill the man were Boy AA, Ely, Celso and he (Rufino Peña appears to have been asked to point to the persons he mentioned and pointed to Ramons Narciso as Boy AA, to Elias Gloria as Ely, and to Francisco Celso as Celso, who were then all present in the same room where the investigation was conducted); that they agreed to kill the man at about 9:00 that evening (to a similar question that followed, the answer given was: that they agreed to kill the man that same evening after the roll call at about 11:00 o'clock.); that when they first came near the man to strike him, the man was lying on the cement floor on his back (tihaya), one of his arms raised near his head; that the first to come near the man was Boy AA who immediately cover-ed the face of the man with a blanket; that the blanket shown to him (he appears to have been shown the bloodstained blanket recovered by the police at the scene or the crime) was the one used by Boy AA in covering the face of the man they hit; that the piece of wood (measuring 1-1/2" x 1-1/4" x 23") shown to him was the one used by them in hitting the man; that they alternately used (aming pinagpasahan) that piece of wood, until all of them were able to hit the man; that he was the first one to strike, followed by Celso; the next was Ely, and the last one was Boy AA; that the place where they killed the man was the cement floor where he was lying inside Cell 2-A; that they made the killing at about 11:00 o'clock after the roll call; that they decided to kill the man because the "Bahala Na Gang" were all enemies; that he studied in school and finished Grade III; that he knew how to read and understood Tagalog; and that having read and understood the contents of the statement, he is willing to sign the same to attest to the truth of what he had therein stated.

Accused Rufino Peña claimed during the trial of the case that his confession (Exh. K was signed by him only after the members of the MPD had given him a countless number of blows all over his body, and after they mercilessly gave him repeated doses of 7-Up treatment into his nose. He testified that as a result of the torture he received in the hands of policemen who investigated him, his body and face were swollen, and when sometime thereafter, he appeared before a branch of the Court of First Instance of Manila in connection with another case, he then informed his parents about the maltreatment; that his parents contacted a certain attorney who had him examined in the Medico-Legal Section of the Police Department of Manila by one of the doctors there. And yet, no medical certificate of the doctor who examined him then we ever presented in the court below; nor was the alleged medico-legal officer who conducted the examination, asked to testify in the said proceeding even as the prosecution had re-minded the defense counsel that he had not presented the doctor ho allegedly conducted the examination, to testify. The record shows that the said counsel asked permission from the court to confer with accused Rufino Peña, after which conference, he announced that he was not calling the doctor who conducted the alleged examination anymore. That circumstance, to our mind, is the best evidence refuting his statement in court that he had been subject of barbaric practices by the police. We really see no reason why such evidence had been suppressed, if the accused was sincere in his allegations. We are inclined, therefore, to discard the torture theory of the defense. Upon the face of the confession, We see no sign of suspicious circumstances tending to cast doubt upon its integrity; the answers given to the questions were responsive and informative, and we are satisfied that the said confession was voluntary.

But counsel for herein reviewee argues that the extra-judicial confession (Exh. K) of Rufino Peña does not show "suspicious circumstances", is "replete with details", "reflects spontaneity and coherence", and the "response therein to every interrogatory is fully informative", because the said statement was prepared by the police investigator who propounded the questions and answered them himself; and that the accused had nothing to do whatever with said statement except to sign it, after the use of force and violence against him. Counsel draws this conclusion from the explanation given by the police investigator who conducted the investigation of the accused

in this case that they first conducted a verbal examination of all the suspects of the inquiry and only after they were sure that the persons investigated had something to do with the crime, were their statements reduced to written form. The pertinent portions of the testimony of Det. Cpt. Carlos Martin, Jr. of the MPD on this point, follows"

CROSS EXAMINATION BY ATTY. MAGNO:

"Q.- You were the officer who took the statements of accused and Peña in this case?

A.- Yes, I was.

Q.- Before you took down the statements of accused Gloria and Peña, did you already know that they were going to admit the offense?

x x x x x

A.- We asked them if they were going to tell the truth. They said "Yes"; then we asked them to relate the incident.

Q.- Do you mean to say that before you asked the specific questions now appearing in the statements of the accused, you did not know the answers they would give to those questions?

A.- Naturally.

Q.- You can qualify your answer by saying that you know some of the answers that they would give?

A.- Some of the answers, yes.

Q.- To what effect were those answers which you knew they were going to give?

A.- Their participation in the crime. We asked them if they participated, they said yes.

Q.- In other words, before taking the statements of the accused, you already knew that they were going to admit the offense, is that correct?

A.- We investigated them first, and after that we reduced into writing their statements.

Q.- Just answer the question?

A.- Yes.

Q.- And that is because you conducted a verbal investigation on these accused before you took their written statements, is that correct?

A.- Yes.

Q. I am now showing you Exhibits "J" and "K", which are the statements, respectively, of Gloria and Peña. When you asked the questions now appearing on Exhibit "J", particularly the questions now appearing or referring to the alleged participation, for instance, the question in Exhibit "J" which has been marked Exhibit "J-1" (Counsel reading Exhibit "J-1"), you already know the answer to this question, is that not right?

A.- Yes.

Q.- So that actually, it was but mere formality on your part to ask that question and to have that answer recorded, is that not also correct?

A.- Yes, it is.

Q.- As a matter of fact, if we go over all the questions in Exhibits "J" and "K", there was none of these

answers, whatso-ever, that you did not already know be-fore you asked the questions, is that not correct?

A. No. You mean to say the answers were these

COURT:

Q.- No, you knew the answers already, you anticipated the answers. Did you know the answers to the respective questions in Exhibits "J" and "K" before the answers were given?

A.- No, your Honor.

COURT:

No. Naturally, how can he know. They admitted generally that they were the ones, but the way, the manner.....

ATTY. MAGNO:

Q.- Do you want us and the Honorable Court to understand that even the manner the offense was committed was not known to you before the answers to the questions in Exhibits "J" and "K" were given to you?

A.- In the verbal investigation we asked them how they did it, and they showed us how they did it. They described it to us.

Q.- So that actually, you already knew the manner the offense was committed before you asked the questions?

A.- Yes." (Tsn, July 25, 1963, pp. 13-15.)

We have studied carefully the import of the foregoing testimony and searched the record with painstaking solicitude, but we failed to find it was the investigator himself who propounded the questions and at the same time gave the answers appearing in Exh. K, much less, the claim that said accused had no part in the preparation of the confession except to sign it. Our own examination of the extra-judicial statements shows that all the accused in this case had revealed therein their individual participations in the killing of the victim and the participation of the others. Accused Elias Gloria states in his confession Exhibit J, that Ramon Narciso, Alfredo de la Rosa, Rufino Peña and Francisco Celso were his companions in killing Roberto Monreal. Accused Ramon Manciso points in his confession Exh. L, to Elias Gloria and Rufino Peña as his companions. Accused Francisco Celso, on the other hand, points to Elias Gloria; Rufino Peña and Ramon Narciso as the persons he saw who struck at the victim, with himself taking no part therein; while the accused Rufino Peña in his confession points to Ramon Narciso, Elias Gloria, Francisco Celso and himself as the ones who killed the victim. Other inconsistencies in the manner these accused took turns in hitting the victim are significant: Thus, Elias Gloria declared that Ramon Narciso was the first to hit with the piece of wood, followed by Alfredo de la Rosa; then by Rufino Peña; Celso was next, with himself delivering the last blow. Rufino Peña's declaration was to the effect that he was the first to hit the victim with the piece of wood, followed by Celso, then Gloria and finally Narciso. Ramon Narciso, on the other hand, declared in his statement that it was Rufi-no Peña who first delivered the blow with the piece of wood, followed by Elias Gloria; while Francisco Celso stated that it was Elias Gloria, Rufino Peña and Ramon Narciso who struck at the victim with the piece of wood in that order. These circumstances may be considered in support of the claim of the police officers who conducted the investigations of the accused that they conducted the examinations separately and simultaneously without collusion either on the part of the investigators or on the part of the accused. The sane circumstances may be considered in disputing the veracity of Rufino Peña's claim that he did not give any of the answers appearing in his confession. To this effect was the holding of this Court in a similar case:[5]

"x x x This inconsistency, the way we look at it, is additional proof that the confession was indeed voluntary. Ordinarily, if the confession was prepared by the Constabulary agents themselves and imposed upon the

appellants, it would be as perfectly tight as the agents could have done it leaving the appellants no possibility of escape from his guilt. x x x."

Of course, We are not unaware that some officers of the law resort to the illegal and reprehensible tactics of extorting confessions through violence and intimidation.[6] But the trial court did not give credence to the claim of the accused that he had no part in the preparation of his confession and that he signed it only after he was tortured. Having seen the manner and demeanor of the witnesses during the trial, the matter of assigning values to their statements in court is within the better competence of trial courts,[7] and We find no compelling reason to disturb the findings of the lower court on this point in this case. Moreover, We find the testimonies of the police officers who testified in this case to be credible, and We cannot but be slow to believe that these officers would be so totally devoid of conscience and so recreant to official duty as to confabulate together in pinning a capital offense on an innocent man without apparently any reason therefor; and no such reason has here been shown.[8] Suffice it to say that the crime committed in this case took place inside the city jail; the police had conducted an investigation of the inmates there immediately after the incident and We believe the possibility of error in picking the persons really responsible was quite remote.

It is also argued that the trial court erred in finding Rufino Peña guilty of the crime charged. Reliance is placed on the fact that the lone witness for the prosecution who saw the killing of Roberto Monreal categorically declared that he saw only Elias Gloria hit the victim with a piece of wood. It is, therefore, contended that the testimony of said witness tends to exculpate accused Rufino Peña rather than incriminate him in the killing and could not be the basis of conviction. The conclusion is not entirely correct. It is true that the lone Government witness to the killing had stated that he did not actually see the other accused hit Roberto Monreal with the piece of wood. But that alone does not conclusively show that Rufino Peña did not hit the victim. The pertinent portions of the testimony of that witness follows:

"Q.- Do you know why said Monreal died in that commotion?

A.- Yes, sir.

Q - Where were you at that time?

A.- I was beside the victim.

Q.- What did you see?

A.- The deceased was being beaten.

Q.- Who was beating the deceased?

A.- Elias Gloria.

x x x x

Q.- What was the position of Monreal at the time he was beaten by Gloria?

A. - He was lying down, face downwards on the floor.

Q.- COURT:

Q.- What was the position of Gloria when he was beating him?

A.- He was in a standing position.

Q. - What was holding Monreal in that position?

A. - He was already wounded when I saw him being beaten by Gloria.

Q. - How many times did you see Gloria beat the victim?

A.- About three (3) times.

Q.- In what part of his body did you see Gloria beat the victim?

A.- On the head.

Q. Aside from Gloria, were there other persons around or near the victim?

A. Yes, but I did not recognize them.

Q.- More or less, how many?

A.- I did not count, and I do not remember, but there were some.

Q.- What were those others, whom you said you cannot remember, doing at the time Gloria was hitting the victim?

A.- They were just standing.

Q.- You said that Monreal was already wounded in that prostrate position at the time he was beaten by Gloria. Where were you previous to that?

A.- I was lying beside Roberto Monreal. I was sleeping.

Q.- Will you tell the court how you were awakened when you said you were sleeping at that time?

A.- Because of the noise of the beating.

From the foregoing, there is no doubt that witness Bernardo Villalon was awakened by the noise of the beating. When he woke up, the victim was already mounded. He saw only Gloria beating the victim with a piece of wood at the time. He had companions then who were near or around the victim, although he did not recognize them. In his extra-judicial confession, on the other hand, accused Rufino Peña narrated that the first to approach the victim who was lying on the cement floor was Ramon Narciso (Boy AA) who immediately covered the face of the victim with a blanket; that he (Rufino Peña) was the first one to strike at the victim; he was followed by Francisco Celso, then by Elias Gloria, and lastly by Ramon Narciso; and that they killed the victim hitting him with the same piece of wood alternately in that order. We do not find the testimony of the eyewitness and the confession of Rufino Peña utterly irreconcilable. The testimony of the eyewitness simply means he did not see Rufino Peña beat the victim because when he woke up, the said accused and Francisco Celso were already through with their beating of the accused. This is deducible from the confession of Rufino Peña that he and Francisco Celso struck at the victim with the same piece of wood before Elias Gloria had his turn to strike with that single piece of wood used by all of them. This is also a logical conclusion from the statement of the eyewitness that he was awakened by the beating and that when he first awoke, the victim was already wounded and prostrate on the floor. At any rate, even if the testimony of the eyewitness on this point is left wholly out of consideration, still there is sufficient basis of conviction, for a confession corroborated by evidence of corpus delicti will suffice.[9] It is really not indispensable that an eyewitness should have seen the commission of the crime before an accused may be held liable under his own confession. The usefulness of the confession as a species of proof, would vanish if it were necessary, in addition to the confession, to adduce other evidence sufficient to justify conviction independently of such confession.[10]

Finally, the alleged denial of due process can-not be favorably considered. The record shows that the case

suffered protracted delays due to repeated postponement of the hearings, but said postponements were either caused by the prosecution or the defense. To be sure, the prosecution appears to have requested a number of postponements caused by absence of witnesses but We presume that said witnesses were there-after able to satisfactorily explain to the trial court their absences, otherwise, they should have been cited for contempt by the trial court. The witnesses referred to are members of the Manila Police Department, of the Homicide Section thereof. The crime wave that has besieged the city these years is only too well known, and their official duties must have contributed to their repeated inability to appear during the trial. Likewise, the circumstance that there were eight different counsels de oficio who took turns in handling the defense of accused Rufino Peña in this case, does not appear to have materially prejudiced his cause. It appears that there were repeated charges of counsel during the trial, whenever appointed counsel de oficio for herein accused was absent, one of the other counsels de oficio for the other accused was designated or substituted in his place. This should not be cause for lament; for on the contrary, it speaks well of the desire of the court to allow accused Rufino Peña to avail himself of counsel all throughout the course of the protracted proceeding.

All the foregoing considered, there is no room for doubt that accused Rufino Peña participated in the clubbing of Roberto Monreal inside Cell 2-A of the City Jail of Manila on the night of July 10, 1961. The writer is of the opinion, however, that said accused should not be convicted of consummated murder, as charged in the information. Except for Rufino Pena's own confession, the evidence for the prosecution, so far as admissible against the said accused, consists of proof of corpus delicti. The only evidence of his direct participation in the commission of the crime was his own extra-judicial confession, a scrutiny of which, on the other hand, would readily cast doubt as to whether the blow with the piece of wood he delivered upon the victim as revealed in the said confession could have been fatal. The said confession, Exh. K, narrates that when they came near the victim, the latter was lying on his back (tihaya) on the cement floor. First to approach the victim was accused Ramon Narciso (Boy AA) who immediately covered the face of the victim with a blanket; and thereupon, Rufino Peña struck at him with the piece of wood. There is no suggestion that Rufino Peña hit the victim more than once; he merely confessed that after striking at the victim, he passed on the piece of wood to Francisco Celso. The eyewitness, on the other hand, testified that when he woke up, he saw the victim beside him al-ready wounded, lying prostrate on the cement floor on his belly (nakadapa), upon whom Elias Gloria delivered three successive blows with the same piece of wood used by Rufino Peña. At that pre-cise time, according to him, the body of the victim then was still covered with the blanket although the head was already exposed. The medico?legal officer who conducted the autopsy on the body of the victim found three (3) wounds which he described in his necropsy report (Exh. B) and in his testimony before the court. Two big lacerated wounds at the back of the bead were described as fatal. The doctor was of the opinion that any one of them could have caused the death of the victim for both wounds caused fractures in the cranium and hemorrhage all over the brain. The third wound (on the face) was described as follows:

"Contusion and superficial skin laceration with swollen tissue hematomas of soft tissues around left eye."

This last wound was never described as fatal by the medico-legal officer, both in his necropsy report and in his testimony during the trial. And this, wound, the way We look at it, could have been the one caused by the accused Rufino Peña when he delivered the first blow upon the victim, considering the evidence that at the time the victim was lying on his back (tihaya) and the face was then cover with the blanket. The fatal wounds at the back of the head may reasonably be attributed to the succeeding blows delivered by any of the other accused who, as seen by the eyewitness, struck at the victim while the man was laying on his belly (nakadapa) with the head already exposed. It would not be far fetched to surmise that after the first blow, the victim made an attempt to rise, causing the blanket to slip down the bead thus exposing it, at which precise time, the succeeding blows were delivered, causing the fall of the victim back on the cement floor on his belly. If this were so, then it would be safe

to conclude that the superficial wound was the one that may alone be attributed to accused Rufino Peña, considering the circumstances that there was no allegation of conspiracy in the information, and the defense had seasonably made objections to the introduction of evidence tending to prove conspiracy, and which objections were all sustained by the trial court. Neither did the court below make any finding of conspiracy in the decision under review; for on the contrary it declared:

"x x x It should be noted that in default of an allegation of conspiracy, the herein accused is not found responsible for the acts of his co-accused as his conspirators, but for his individual participation for the death of the victim."

Rufino Peña should, therefore, be held liable only for the consequences of his own act - that of inflicting upon the person of the victim the superficial wound above-mentioned.

Intent to kill is apparent on the face of Rufino Peña's own confession, but he failed to kill the victim mortally, either because of his poor aim or because he failed to apply the degree of force necessary. Whatever the real cause is, there is no doubt that the injury he inflicted upon the victim could not have produced the intended killing as a consequence; hence, the stage of execution insofar as accused Peña is concerned, was merely attempted.

The qualifying circumstance of treachery was properly considered by the court; but evident premeditation may not be appreciated as the evidence tends to show that the attack upon the victim was thought of only some fifteen (15) minutes before the incident. Use of superior strength also should not be considered against the accused, for even if we were to believe the claim of Rufino Peña in his confession that all the accused in this case, each delivered blows upon the victim, he declared in the same confession that they attacked the deceased Roberto Monreal alternately, one after the other. So with the aggravating circumstance of nighttime, which does not appear to have been especially sought since the notion to commit the crime was thought of only shortly before its commission.[11] In the absence of any aggravating circumstance other than treachery which had been considered as a qualifying circumstance, and in the absence of any mitigating circumstance either which attended the commission of the crime, the penalty imposable under the law,[12] should be applied in its medium period. The penalty for attempted murder is prision correccional in its maximum period to prision mayor in its medium period. Applying the benefits of the Indeterminate Sentence Law, the accused Rufino Peña should be sentenced to a penalty the minimum of which should be within the range of arresto mayor in its maximum period to prision correccional in its medium period, with a maximum within the range of prision mayor in its minimum period.

WHEREFORE, the decision under review is modified accordingly, and the accused Rufino Peña is hereby sentenced to two(2) years, four(4) months and one (1) day of prision correccional to eight(8) years of prision mayor, and to pay the heirs of the offended party in the sum of FIVE HUNDRED PESOS (P500.00). The judgment of the lower court is affirmed in all other respects. Counsel de oficio in this proceeding is ordered compensated by the Government in the amount of TWO HUNDRED PESOS (P200.00) in accordance with section 32, Rule 138 of the Rule of Court.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] People vs. Fraga, L-12005, Aug. 31, 1960, and cases therein cited.

[2] See People vs. Durante, 47 Phil. 654, and cases therein cited.

[3] People vs. Badilla, 48 Phil. 718; See also, People vs. Raiz, L-4565, May 20, 1953.

[4] Sec. 29, Rule 130, Rules of Court. (Confession - The declaration of an accused expressly acknowledging his guilt of the offense charged, may be given in evidence against him.)

[5] People vs. Cruz, 1 O.G. No. 12, p. 867 (August 24, 1942).

[6] See People vs. Carillo, et al., 85 Phil. 630.

[7] See People vs. Catalino, L- 25403, Mar. 15, 1968.

[8] See People vs. Cruz, supra.

[9] People vs. de la Cruz, L-1745 May 23, 1950.

[10] People vs. Bantagan, 54 Phil. 834.

[11] See People vs. Pardo, 79 Phil. 568.

[12] Art. 64, Revised Penal Code.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.