

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JUAN DE LA ROSA, ET AL., DEFENDANTS. RODOLFO BALMONTE,
MARTIN ESTRADA AND LUIS DACOSCOS, DEFENDANTS AND
APPELLANTS.**

G. R. No. L-3609. November 08, 1951

Ponente: JUGO, J.

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JUGO, J.:

Juan de la Rosa, Rodolfo Balmonte alias Leopoldo Balmonte, Luis Dacoscas, and Martin Estrada were accused in Criminal Case No. 17187 of the Court of First Instance of Pangasinan, of the crime of robbery in band with homicide. Afterward Manuel Bautista, Paty Quisada, and Carlos Luada were also accused in Criminal Case No. 17392 of the same court as co-principals of the same crime. The two cases were tried together. After the prosecution had rested, the court dismissed the charge against Carlos Luada and Paty Quisada for lack of evidence, and proceeded with the reception of the defendants' evidence with regard to the other defendants. After the trial, Manuel Bautista was acquitted. Juan de la Rosa, Rodolfo Balmonte alias Leopoldo Balmonte, Luis Dacoscas, and Martin Estrada were found guilty of the crime of robbery with homicide and each of them was sentenced to suffer reclusion perpetua to indemnify jointly and severally the heirs of the deceased Emilio Tolentino in the sum of P6,000.00, to indemnify Jovita Caoile in the sum of P50.00, without subsidiary imprisonment in case of insolvency, and to pay the costs. The four defendants appealed, but Juan de la Rosa failed to perfect his appeal within the regular period. So the appellants now are only Rodolfo Balmonte alias Leopoldo Balmonte, Luis Dacoscas, and Martin Estrada.

The facts of the case may be briefly stated as follows:

On the night of July 13, 1946, Jovita Caoile, her mother Simeona Rocapor, and her sister Juliana Caoile, were awakened by some persons who were knocking at the door of Caoile's house in barrio Binmeckeg, municipality of Sison, Pangasinan, saying that they were police officers who wanted to search the house. Before the door could be opened by the inmates, said persons attempted to break it. The inmates shouted for help. Jovita then heard gunshots outside. Scared, she jumped out of the window attempting to escape. Upon falling on the ground she was seized by two men who were later joined by six others. Jovita was able to identify only three of them, who were Juan de la Rosa, Manuel Bautista, and Rodolfo Balmonte.

The men dragged Jovita to some distance from the house, taking away from her a ring she was wearing, valued at P50.00. She heard another shot. Some of the men near Jovita said that it was fired by one of their companions. These men left. When Jovita returned to the house, she found Emilio Tolentino, who had answered their call for help, lying on the ground with a wound in the abdomen, of which he later died.

Juan de la Rosa, during his investigation by the Constabulary authorities, made a written confession in which he stated that Martin Estrada, Rodolfo Balmonte, and Luis Dacoscas were among his companions in the raid. These three persons were later arrested and interrogated. They made confessions in separate sworn statements, Exhibits

C, D, and E.

The appellants testified without corroboration that their confessions had been obtained through force and intimidation. This claim is not believable. In the first place, Bautista, Luada, and Quisada did not sign any confession, did not complain of any maltreatment, and were acquitted. If it was the purpose of the police authorities to wring confessions to facilitate their work in obtaining convictions, there was no reason why they should not have also intimidated and forced these three defendants to make confessions. Furthermore, the Justice of the Peace of Manaoag, Pangasinan, Pedro C. Caoile, testified that before the appellants signed their confessions before him he asked them whether they had been forced or intimidated. He told them not to be afraid to say so as he would protect them, but the appellants answered that their confessions were voluntary. However, at the trial Balmonte testified that he refused to admit the contents of his alleged confession before the Justice of the Peace; that he was taken away from his presence, again maltreated, and then returned to the judicial officer before whom he again refused to admit the confession. However, the Justice of the Peace signed the confession, Exhibit C, as having been ratified before him.

Estrada also testified at the trial that he refused to admit the contents of the confession, Exhibit D, but the Justice of the Peace, disregarding his protest, signed it as ratified.

If the Justice of the Peace wanted to connive with the police authorities, he could have signed the confessions, on the first occasion without any further ceremony.

Although Justice of the Peace Pedro R. Caoile is the brother of the offended party Jovita Caoile, we see no reason why he should have acted other than impartially in the premises.

With regard to Balmonte, he testified that he signed the confession, Exhibit C, while he was still trembling from the pain and shock caused by the maltreatment. An examination of his signature shows that the strokes are smooth and regular, not made by a trembling hand or a nervous person. Said signature is even better than his signature in the record of the preliminary investigation.

In Exhibit F, which is the record of the preliminary investigation conducted by the Justice of the Peace, it appears that the appellants pleaded guilty. They impugn the truth of said entry. In this connection it should be noted that the appellants filed a motion for re-investigation to be held on October 11, 1946, based on alleged irregularities committed by the Justice of the Peace, but in their complaint, they did not mention the alleged falsity of the entry of the plea of guilty, and at the reinvestigation they were not able to substantiate their complaint, which was therefore dismissed. Furthermore, it would have been unnecessary for the Justice of the Peace to make a false entry of the plea of guilty when the defendants had already executed their confessions, Exhibits C, D, and E.

The appellants contend that Jovita Caoile could not have identified Balmonte. It should be noted that Jovita was frank when she was unable to identify some of the defendants, but with regard to Balmonte she could not have been mistaken because she saw him at close range; there was moonlight and she had known and seen Balmonte several times before the commission of the crime. No evil motive can be attributed to Jovita which would have induced her to testify falsely against Balmonte.

In this case, the fact that the crime of robbery had been committed, which constitutes the corpus delicti, is undoubted. Consequently, the confessions are admissible and can be given due weight.

The appellants contend that they cannot be held responsible for the death of Tolentino as they were not the ones who actually killed him and there is no proof of conspiracy. Proof of conspiracy on this point is not essential. It is sufficient that "by reason or on occasion of the robbery, the crime of homicide shall have been committed" (Art. 294, Revised Penal Code).

"Whenever a homicide has been committed as a consequence or on the occasion of a robbery, all those who took part as principals in the commission of robbery will also be held guilty . as principals in the complex crime of robbery with homicide, although they did not actually ' take part in "Hie homicide, unless It appears that they endeavored to prevent the killing.¹¹ (Commentaries on the Revised Penal Code, Guevara, 4th Edition, p. 578; People vs. Silverio Morados et al., 40 Off. Gaz., 13th Supp. p. 75)

On the whole, we believe that the judgment appealed from should be affirmed as It is hereby affirmed, with costs against the appellants. It is so ordered.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes and Bautista Angelo, JJ., concur.

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