

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ERNESTO POBLETE Y MENDOZA ET AL., DEFENDANTS, ERNESTO
POBLETE Y MENDOZA, DEFENDANT-APPELLANT.**

G.R. No. L-1752. July 27, 1949

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from a decision of the Court of First Instance of Manila finding the appellant guilty of robbery with homicide and sentencing him to reclusion perpetua, to the accessories of law, to indemnify the heirs of the deceased, Concepcion Carpio, in the sum of P4,000, and to pay one-fifth of the costs.

Four other persons were accused of the same crime with the appellant. Three of them were acquitted for insufficiency of evidence and one was still at large when the case was tried.

It appears that five men broke into a house in Sampaloc, Manila, between twelve midnight and one o'clock a.m. on August 6, 1946. The robbers were armed with German luggers, carbines and pistols, gathered the people of the house in the sala, and searched the place for loot. Alfredo Carpio, one of the inmates, was able to slip out into the street and cry for help. Upon hearing Alfredo's outcries, the malefactors fled, but in their flight they fired into the dwelling and fatally wounded Concepcion Carpio, Alfredo's sister, who succumbed soon after, on the way to a hospital. They succeeded in carrying away cash, jewelry and other articles worth, including the cash, P4,000.

Appellant's three coaccused were acquitted because the only evidence against them was their confessions to the police, and these confessions, the court believed, had been obtained through force and intimidation.

In pronouncing Ernesto Poblete, the appellant, guilty, the court found that he had been identified by Alfredo Carpio, who declared that Poblete was armed with a revolver, and that, although the faces of the robbers were covered with handkerchiefs, Ernesto Poblete pulled down his once. But Detective Baldomero Tiansen, who was presented as a witness for the prosecution, testified that in his investigation of the robbery, Alfredo Carpio pointed to Eduardo Ignacio as the man who took off his disguise and who was recognized by Alfredo.

No attempt was made to explain this contradiction. Little or no value can be attached to Alfredo Carpio's testimony. The fact that all the lights in the house were out except perhaps one in the toilet room, adds to the doubt as to the identity of the man who, according to Alfredo Carpio, was the appellant.

However, we are satisfied that the appellant's confession was voluntary. The arresting and investigating officers denied that this accused was subjected to maltreatment. We are not prepared to declare that pressure was used to coerce him into confessing. If this defendant's coaccused were tortured, as the court found, it does not necessarily follow that the appellant was treated likewise. It appears that the appellant was arrested only on September 28, 1946, when Ricardo Mendoza, Jose Demetrio and Eduardo Ignacio, his co-defendants, were already under arrest and had made statements in which they implicated him. It would not have been strange if the appellant, confronted with these confessions realized the futility of denying his participation in the crime and so readily

admitted it.

The appealed decision is affirmed with costs, except that the appellant should be sentenced also to pay the owners the value of the property and cash stolen, which value is P4,000.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Padilla, Montemayor, and Reyes, JJ., concur.

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