

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICENTE MENDOZA, CELES BELTRAN, PEPING BELTRAN, SABAS
BORER AND MARCOS CAPATOY, DEFENDANTS-APPELLANTS.**

G.R. No. L-2371. May 05, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

In an amended information filed by the provincial fiscal in the Court of First Instance of Leyte the five above-named appellants together with one Cornelio Briva, who was still at large and was not tried, were charged with the crime of sedition with multiple murder and frustrated double murder. After due trial His Honor Judge Edmundo S. Piccio found them guilty of quintuple murder and sentenced each of them "with the benefits of the indeterminate sentence law, to life imprisonment, pay jointly and severally the heirs of each and every victim in the sum of P2,000, plus 5/8 of the costs"; and acquitted them of the charge of sedition.

Late in the afternoon of December 15, 1946, Zacarias Ladera, the chief of police of Alangalang, Leyte, accompanied by eight policemen, and by Vicente Salazar and Fausto Babiano, boarded a passenger truck of the Leyte Transit for the barrio of Lucay, Alangalang, in order to apprehend a group of troublemakers composed of Alberto Alcober, Celes Beltran, Peping (Felipe) Beltran, Vicente Mendoza, Sabas Borer, Marcos Capatoy and Cornelio Briva, who, according to Vicente Salazar, threatened to kill him because he had previously reported to the police certain acts of lawlessness of the said group.

Upon reaching Km. 33 at the barrio of Lucay, Alangalang, the Leyte Transit truck in which the chief of police and his party were riding was stopped by Alberto Alcober and Vicente Mendoza who were armed with a tommygun and a carbine, respectively. Without any warning Vicente Alcober fired upon the passenger truck and, almost simultaneously, Vicente Mendoza and the other appellants and Cornelio Briva, who were all armed with carbines, also fired from where they were in a kneeling position near a banana plantation along the side of the road. The chief of police returned the fire and hit and wounded Alberto Alcober, who died later. The appellants escaped.

Two policemen named Ambrosio Ladera and Ignacio Velarde, the inspector of the truck named Florencio Brazil, and two children named Francisco Tejones and Trinidad Tejones were killed in the ambushade. Policeman Jose Blanco and Sixto Tolete were wounded.

It appears that on the preceding day, December 14, 1946, the chief of police and seven policemen made an unsuccessful attempt to arrest Alberto Alcober, Celes Beltran, Vicente Mendoza and Cornelio Briva because of the report of Vicente Salazar that on December 13 said individuals had threatened him with bodily harm if he would report to the police what he had just witnessed, to wit: that they had fired at a passing automobile. Another reason why the chief of police wanted to arrest and investigate said individuals was that he received another report that they had robbed, one Isidro Banes of two pigs. When the chief of police and his party arrived at the house of Alberto Alcober on December 14, Alberto Alcober, Vicente Mendoza and Cornelio Briva jumped from the house and fled. The policemen fired at them, but they succeeded in running away. The police found and confiscated two

slaughtered pigs in the house of Alcober. That was why on December 15, 1946, Alberto Alcober and the members of his armed band, the present appellants, were looking for Vicente Salazar in order to chastise and perhaps kill him for having made that report to the chief of police. Fausto Babiano, brother-in-law of Vicente Salazar, lost no time in apprising the latter, who was then in the poblacion of Alangalang, of the evil intention of Alberto Alcober and his companions. Vicente Salazar in turn solicited the help of the chief of police. Hence the expedition which resulted in the ambush and killings already narrated above.

The foregoing facts appear from the testimony of Chief of Police Zacarias Ladera, Vicente Salazar, Fausto Babiano, Gavino Acebedo and Sixto Tolete.

The ambush and the killings are not disputed. But the appellants in their defense would have the court believe that the only active participants in the ambush and killings were the now deceased Alberto Alcober and the accused Cornelio Briva who at the time of the trial was still at large. With the exception of Celes Beltran, all the appellants admitted they were present at the scene of the crime, but claimed that they did not participate in the shooting; that they happened to be there, because shortly before the ambush they were stopped by Alberto Alcober who interrogated them as to whether they were spies of the chief of police. The appellant Vicente Mendoza claimed that he was at the scene of the crime because shortly before the shooting he went there at the behest of his sister, the wife of Alberto Alcober, to look for the latter, but that Cornelio Briva ordered him to remain. He denied having fired at the truck.

The appellant Celes Beltran was the only one who denied having been present at the scene of the crime. He claimed that at the time of the occurrence he was in the neighboring barrio of Cavite, at the store of one Josefa Garrido, to which he had repaired to buy cigarettes.

We agree with the trial court and the Solicitor General that the defense put up by the appellants deserves no serious consideration. The evidence shows that the appellants were members of the armed band headed by Alberto Alcober that had been committing acts of lawlessness previous to the crimes in question.

The appellants are guilty of five murders and two frustrated murders, qualified by treachery. Conformably to the recommendation of the Solicitor General, each of the appellants is hereby sentenced to suffer reclusion perpetua for each of the five murders, and jointly and severally to indemnify the heirs of each of the deceased in the sum of P6,000. Each of them is also hereby sentenced to suffer an indeterminate penalty of 10 years and 1 day of prison mayor as minimum, to 17 years and 4 months reclusion temporal as maximum for each of the two frustrated murders. However, in accordance with Article 70 of the Revised Penal Code, the duration of the aggregate penalties herein imposed shall not exceed 40 years. The appellants shall pay the costs of both instances.

JUDGMENT MODIFIED.

Moran, C.J., Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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