

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADOLFO AGUILAR Y HOMBRE, DEFENDANT-APPELLANT.***G.R. No. L-32041. January 30, 1982*

Ponente: ERICTA, J.

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This is an appeal from the decision of the Criminal Circuit Court of Manila convicting Adolfo Aguilar of the crime of Robbery with Homicide and imposing upon him, among others, the extreme penalty of death.

The scenario starts with the discovery of the dead body of Arturo Lleno. At about 8:00 o'clock in the morning of Sunday, November 30, 1969, the defendant Adolfo Aguilar and prosecution witness Luis Rosales discovered the dead body of Arturo Lleno, lying on his belly on the second floor in an apartment room then under construction at No. 2244 Leon Guinto Street, Malate, Manila. There were injuries at the back of the head of the deceased. At the left side were a bloodstained hatchet and a wallet whose contents consisting of photographs and assorted pieces of paper were scattered on the floor. The two immediately notified an old man in a neighboring apartment. The old man in turn notified the police. Prosecution witness Patrolman Luis Adriano of the Manila Police Force conducted an investigation. Dr. Luis Larion, Medical Examiner of the Manila Police Department, who conducted an autopsy examination on the remains of Arturo Lleno, prepared a necropsy report (Exh. "G"), revealing multiple wounds in the head and the neck. The cause of death was "shock and hemorrhage due to traumatic fracture of the maxilia and mandible with subarachnoid and subdural hemorrhage in the brain". At the trial, Dr. Larion testified that the wounds of the deceased must have been caused by a blunt hard object.

There is no eye witness to the killing and there is no evidence in the record indicating when Arturo Lleno died. This makes it necessary to study and analyze the testimony of the witnesses, both for the prosecution and for the defense, to make a fair appraisal of the evidence.

According to the first prosecution witness, Alfredo Gaddi, who was a building contractor, he was in charge of the construction of an apartment building located at Leon Guinto Street, Ermita, Manila. The defendant Adolfo Aguilar, the deceased Arturo Lleno and prosecution witness Luis Rosales were among his laborers. The deceased was a mason and a timekeeper and he was in charge, among others, of paying the salaries of the laborers. At 4:30 p.m. of November 29, 1969, Gaddi gave to the deceased the amount of P1,300.00 for the payment of the wages of the laborers. Gaddi did not verify if the deceased was able to pay the laborers on that day.[1]

The second prosecution witness, Luis Rosales, was also a laborer in the construction of the apartment. According to him, he, the defendant Adolfo Aguilar and the deceased Arturo Lleno, were at the construction site on Saturday, November 29, 1969. The laborers stopped working at 5:00 o'clock in the afternoon. Between 5:00 p.m. to 7:00 p.m. of that day, Rosales waited for defendant Aguilar who was then talking at the job site with the deceased and Alfredo Aquino alias "Jack". At 7:00 o'clock in the evening of that day, prosecution witness Rosales and the defendant proceeded together to the former's house located at Bangkal, Pasay City, where they ate their dinner together. That same evening, the defendant, Rosales and a neighbor by the name of Rogelio, finished

drinking three gallons of tuba. At about 8:00 o'clock in the evening of that same day, the defendant allegedly left Rosales' house to answer the call of nature. He returned to Rosales' house at 10:00 o'clock that same evening. Upon his return, the defendant and Rosales resumed drinking tuba up to 1:30 a.m. of the following day, which was a Sunday, November 30, 1969. Then, the defendant and Rosales proceeded to a neighbor's house to keep vigil over a deceased neighbor. The two kept vigil up to 4:30 in the morning and later returned to the house of Rosales at 5:00 a.m. At about 7:00 o'clock that same morning, the defendant and Rosales returned to the job site. The purpose of Rosales was to get his pay from the deceased, while the purpose of the defendant was to comply with the instruction of the deceased that he report for duty that Sunday to do some work in connection with the construction. Upon arrival of the two near the apartment, they called the deceased but there was no reply from him. Hence, upon suggestion of Rosales, the defendant went up the second floor of the apartment. The defendant was afraid to enter the room of the deceased, hence, he called for the old man of the neighboring apartment. Upon the arrival of the old man, the defendant, Rosales and the old man entered the room where the deceased used to sleep and discovered his dead body with wounds on the head. It was the old man who reported to the police the discovery of the dead body of Arturo Lleno.[2]

In response to the call of the old man, Patrolman Luis Adriano of Manila started the investigation on the morning of that Sunday, November 30, 1969. In his testimony, Pat. Adriano declared that he investigated immediately prosecution witness Luis Rosales, the defendant Adolfo Aguilar, Alfredo Gaddi, and a certain Mr. Castillo. In the course of the investigation, the name Alfredo Aquino alias "Jack" was also mentioned as a possible suspect but he could not be located. In the beginning of the investigation, the defendant was adamant in denying any knowledge of the killing but he finally voluntarily confessed his guilty participation which is now embodied in a 3-page confession (Exhibit "H").

In the confession, the defendant admitted that he and Alfredo Aquino conspired to kill the deceased; that Alfredo Aquino alias "Jack" was the first to deliver a blow on the head of the deceased with a hatchet and that later, the defendant also delivered a blow on the head of the deceased with the handle of the hatchet. The confession also states that when Arturo Lleno died, Alfredo Aquino alias "Jack" took money from the wallet of the deceased.

Pat. Adriano also made the defendant re-enact the commission of the crime and the photographs of the re-enactment now appear in four photographs (Exhs. "I", "I-1", "I-2" and "I-3").[3]

Finally, Demetria Lleno, the mother of the deceased, declared during the trial that she saw her son at 6:00 p.m. of November 29, 1969 at the construction site to get the salary of her son. The deceased gave her P30.00 from his wallet, and upon opening his wallet, she noticed that there were about P500.00 remaining in the said wallet. She further testified that her son was wearing a Gruen watch valued at P60.00, a gold ring worth P35.00 a pair of shoes worth P25.00 and he had with him a radio worth P20.00.[4]

On the other hand, only the defendant testified for his defense. He interposed denial and an alibi. He denied having killed Arturo Lleno who, according to him, was his close friend with whom he used to sleep for one month prior to his (Lleno) death. In the morning of November 29, 1969, the defendant reported for work at the construction site of the apartment. On that same day, he received from the deceased his wage. At 5:30 in the afternoon of that day, the defendant left the job site and accompanied prosecution witness Luis Rosales to the latter's house in Pasay City where the two dined and drank tuba together. He left Pasay City at 6:30 of the following day, November 30, 1969. Between 5:30 in the evening of November 29, 1969 and 6:30 a.m. of November 30, 1969, he never left the house of Luis Rosales in Pasay City. He denied Rosales' testimony that between 8:00 o'clock and 10:00 o'clock in the evening of November 29, 1969, he ever left Pasay allegedly to answer the call of nature. The defendant declared that the last time he saw Arturo Lleno alive was at 6:00 p.m. of November 29, 1969. The defendant returned to the construction site in the morning of November 30, 1969 to

report for some work assigned to him by the deceased accompanied by prosecution witness Luis Rosales. Upon arrival at the job site, one Mr. Justino asked the defendant to call the deceased which he did but the deceased did not answer. Hence, the defendant and Luis Rosales went up the second floor of the apartment building under construction and saw Arturo Lleno already dead. The two went down to inform Mr. Justino about the death of Lleno, and then the defendant and Rosales went to attend to their work. The defendant was arrested at 7:00 o'clock that morning of November 30, 1969 and he was immediately brought to the detective bureau for investigation. The defendant was accused by the police investigators as the killer of Arturo Lleno but he denied the accusation. With respect to the confession (Exh. "H"), he disclaimed knowledge of the same and denied having signed it. The defendant stated that it was the police investigators who signed the confession (Exh. "H").[5]

On the basis of the foregoing evidence, the trial judge convicted the defendant, as stated above. The conviction was based on the alleged confession of the defendant corroborated only by the evidence of the corpus delicti, the Court holding:

"The participation of the accused herein is established by the confession (Exh. "H") wherein he admitted having killed the deceased in conspiracy with one Alfredo Aquino alias "Jack". (p. 46, record)

We have grave doubts.

There are facts and circumstances which negate the culpability of the defendant.

The conduct of the defendant after the killing is not of a guilty person. No less than prosecution witness Luis Rosales testified that at about 7:00 a.m. of November 30, 1969, he and the defendant together went to the construction site in order that Rosales would get his pay from the deceased and in order that the defendant perform the work assigned to him by the deceased on that day. The defendant never attempted to flee from the minions of the law. Even when he was aware that police investigators were summoned to the construction site, the defendant remained there to continue working. On the other hand, the other suspect, Alfredo Aquino alias "Jack", disappeared and could not be located. Alfredo Aquino was later captured and during the trial of this case on December 15, 1969, a complaint was already filed against him and docketed in the Fiscal's Office of Manila for preliminary investigation.[6]

The record does not show what is the present status of that complaint against Aquino.

The prosecution miserably failed to show any motive of the defendant to kill the deceased. From the investigation of Pat. Luis Adriano himself, it was disclosed that the deceased and the defendant "were very close friends." [7] According to the accused himself, during the period of one month that he had been working in the construction site, he used to sleep with the deceased Arturo Lleno and the latter's father.[8] Neither could robbery be the motive because the evidence shows that nothing was stolen. On this point, the Solicitor General states in his brief:

"The undersigned counsel for the People cannot, however, in conscience subscribe and agree to the finding of the trial court that appellant also committed the crime of robbery. For the prosecution has not adduced any evidence whatsoever showing that the appellant stole and took a wrist watch and a ring from the deceased. Upon the other hand, in appellant's extra-judicial confession, which is heavily relied upon by the prosecution, he vehemently denied that he took alleged belongings of the deceased. And this denial is bolstered by the fact that no such articles were found in the person of the appellant by the police officers who investigated and arrested him soon after the discovery of the body of the deceased (Exh. "J", p. 26, Record).

"Neither could appellant have had the opportunity to dispose of said articles, if he had really taken them, considering that as testified to by prosecution witness Luis Rosales, appellant was all the time with him from 10:00 o'clock in the night of the incident in question until the discovery of the remains of the deceased in the

following morning and all throughout the investigation conducted by the police following the discovery (pp. 10-18, tsn; Exh. "J", p. 26, Record).

"As for the testimony of the mother of the deceased that her son was wearing a watch and a ring a few hours before his death (pp. 48-51, tsn, Delim, Dec. 15, 1969), the same is weakened by the testimony of prosecution witness Luis Rosales that he did not notice if the deceased was wearing said watch and ring in the afternoon of November 29, 1969 (p. 18, tsn, Delim). We respectfully submit, therefore, that the prosecution has failed to adduce that quantum of proof necessary to establish that appellant also committed the crime of robbery in this case." [9]

The absence of apparent motive to commit the offense charged would, upon principles of logic, create a presumption of the innocence of the accused, since, in terms of logic, an action without a motive would be an effect without a cause.[10] The defendant also established a perfect alibi. He testified that at 5:00 o'clock in the afternoon of November 29, 1969, he received his wage from the deceased.[11] The defendant saw the deceased alive for the last time at 6:00 p.m. of November 29, 1969.[12] This fact is corroborated by prosecution witness, Demetria Lleno, who declared that she saw her deceased son Arturo Lleno at 6:00 o'clock p.m. of November 29, 1969 to get his salary from him.[13] After the defendant received his salary from the deceased, he and prosecution witness Luis Rosales left the construction site together and proceeded to the house of Luis Rosales in Pasay where they ate and drank tuba. Later, defendant and Luis Rosales proceeded to a neighboring house where they kept vigil over a dead person. At about 6:30 the following morning of November 30, 1969, the defendant and Luis Rosales returned to the construction site at Leon Guinto, where they discovered the dead body of Arturo Lleno. According to the defendant, from the time he went with Luis Rosales to the latter's house at about 6:00 o'clock in the evening of November 29, 1969 up to 6:30 the following morning, November 30, 1969, when the defendant and Rosales returned to the job site, they were always together.[14]

The alibi of the defendant was substantially corroborated by prosecution witness Luis Rosales who declared that at 5:00 o'clock p.m. of November 29, 1969 after the day's work, he waited for the defendant, who was then talking with the deceased. The defendant and Luis Rosales had previously agreed to go together to Rosales' house in Pasay. Rosales declared that at about 7:00 o'clock that same evening of November 29, 1969, he and the defendant went together to Pasay in Rosales' house where they ate and drank tuba. Later, the two proceeded to visit the dead person in a neighboring house where they stayed up to 4:30 a.m. of November 30, 1969. From the house of the dead person, the two proceeded to Rosales' house for breakfast and after breakfast, the two returned to the job site where they arrived at 7:00 o'clock in the morning. It was upon their arrival that morning of November 30, 1969 that the dead body of Arturo Lleno was discovered for the first time.[15]

The only difference between the testimony of prosecution witness Luis Rosales and the defendant is that while Rosales declared that the defendant temporarily left the house between 8:00 to 10:00 o'clock in the evening of November 29, 1969,[16] the defendant vigorously denied that he ever left the house of Luis Rosales[17] except when said defendant and Rosales went together to a neighbor's house to keep vigil over a dead person until the early morning of November 30, 1969.[18]

As to which of these conflicting testimonies of the witnesses should be believed, no less than police investigator, Luis Adriano, a prosecution witness, stated "we also checked the alibis made by the accused in this case Adolfo Aguilar and we found that he was telling the truth." [19]

But assuming that the defendant really temporarily left Rosales' house between 8:00 to 10:00 p.m. in the evening of November 29, 1969, this does not show that he used that period to go back to the construction site for the purpose of killing the deceased. The evidence for the prosecution does not show when Arturo Lleno was killed. The last time that he was seen alive was 6:00 o'clock in the afternoon of November 29, 1969. Nobody saw the

killing. His dead body was discovered for the first time by the accused and prosecution witness Luis Rosales at 7:00 o'clock the following morning of November 30, 1969. The deceased could have been killed any time between 6:00 o'clock to 8:00 o'clock in the evening of November 29, 1969 or between 10:00 o'clock in the evening of November 29, 1969 and 7:00 o'clock in the morning of November 30, 1969. There is no showing whatsoever that the deceased died between 8:00 and 10:00 o'clock in the evening of November 29, 1969, the period when the defendant allegedly left and later returned to the house of Luis Rosales.

The evidence of the prosecution is completely bereft of any evidence to indicate the culpability of defendant except the alleged confession (Exh. "H") corroborated by the corpus delicti. Without the alleged confession, there is no evidence whatsoever to implicate the defendant in the killing.

There are indications, however, that this alleged confession was extracted by means of violence and brutality inflicted on the defendant. On December 16, 1969, the defendant, thru counsel, filed an Urgent Motion Ex-Parte with the Court alleging the following:

- "1. That the next hearing of the above-entitled case is set for December 22, 1969;
2. That the accused is a detention prisoner confined at the Manila City Jail;
3. That the accused claims that he was subjected to police brutalities and was coerced to make a confession admitting the commission of the crime charged;
4. That the marks of the injuries sustained by the accused are still evident but said marks may disappear in day or two; and
5. That it is imperative that the accused be physically examined immediately by a competent government physician in order to certify to the extent and nature of the injuries he has suffered.

WHEREFORE, it is respectfully prayed of this Honorable Court that the Warden of the Manila City Jail or his representative be ordered to let the accused be taken temporarily from the Manila City Jail so that he can be brought to a government physician for physical and medical examination.

Manila, Philippines, December 16, 1969." [20]

Complying with an order of the court which granted the petition, Dr. Mariano B. Lara conducted the medical examination and submitted the following report dated December 17, 1969, which, among other things, reads:

- "(3) External findings for alleged physical injuries, are:
- (a) Complains of some pain in the region of the left lower hypocondriac region, where he avers he had been fistically boxed, but there is no visible swelling or discoloration change in the area;
 - (b) Also complains of some pain in the region of the right lower jaw, but also there is no swelling or discoloration change."
- [21]

The negative finding of any signs of violence is obviously due to the fact that the medical examination was made on December 17, 1969, or 16 days after the defendant was allegedly forced to sign his confession on December 1, 1969 (Exh. "H").

What is surprising is that on December 22, 1969, when the defendant testified as the sole witness for his defense, he did not reiterate the alleged "brutality" committed by the police against him, or his allegation that he "was forced to make a confession admitting the commission of the crime charged" in his Urgent Motion filed with the Court six days before he testified. Testifying on the alleged confession, the defendant limited his testimony to saying that "I do not know this, your Honor" (referring to the confession [Exh. "H"]), that "I did not sign this,

your Honor" (referring to the same confession) and that "the police signed this" (referring to the confession).

The explanation is very simple. The defendant has been a detention prisoner from the time of his arrest in the morning of December 1, 1969 up to the present. He filed on December 16, 1969 with the Criminal Circuit Court of Manila the Urgent Motion alleging brutality committed against him by the Manila police. Six days later, that is to say, on December 22, 1969, the defendant testified in court. One can easily speculate as to what could have happened to the defendant between December 16, 1969 when he accused the policemen of brutality and December 22, 1969, when he testified in the court room.

Another circumstance to show that Exh. "H" could not have been the voluntary confession of the defendant is the fact that he is a native of Magallanes, Sorsogon, but the 3-page confession was written in flawless Tagalog. There is nothing in the evidence to show that this confession written in Tagalog was read or understood by the defendant or that the contents of the same were faithfully translated to him in his native Bicolano dialect. Only Patrolman Adriano testified that the confession was voluntary. Fiscal Chavez who administered the jurat was not presented as a witness.

The only witnesses to the preparation of the confession were Pat. Luis Adriano and Pat. Generoso Javier of the Manila Police Force. These two patrolmen also managed the re-enactment by the defendant of the alleged commission of the crime.[22]

During the cross-examination, Patrolman Adriano admitted that "at first he (accused) was adamant, but later on he gave his statement voluntarily." [23] The defendant was arrested in the morning of November 30, 1969. He signed his confession at about 7:00 a.m. of December 1, 1969 (Exh. "H"). The interesting question is, what kind of persuasion was made to make the defendant change his mind?

"The most painstaking scrutiny must be resorted to by the trial courts in weighing evidence relating to alleged voluntary confessions of the accused and the courts should be slow to accept such confessions unless they are corroborated by other testimony." [24]

Aside from the evidence of the corpus delicti, no evidence, whatsoever, direct or circumstantial, was presented by the prosecution to corroborate the alleged confession.

In sum, the evidence of the prosecution does not satisfy the quantum of evidence necessary to produce conviction with moral certainty.

WHEREFORE, the guilt of the defendant not having been established beyond reasonable doubt, we reverse the decision of the lower court and hereby acquit the defendant with cost de oficio.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, and Escolin, JJ., concur. Aquino, J., dissents. Appellant's guilt proven by his extrajudicial confession. He should be sentenced to reclusion perpetua.

[1] tsn, pp. 3-4, Delim.

[2] tsn, pp. 6-24, Delim.

[3] tsn, pp. 32-45, Delim.

[4] tsn, pp. 49-51, Delim.

- [5] tsn, pp. 2-5, Palma.
- [6] tsn, p. 42, Delim.
- [7] tsn, p. 46, Delim.
- [8] tsn, p. 2, Palma.
- [9] Solicitor's Brief, pp. 15-16.
- [10] 1 Wharton's Criminal Evidence, p. 325.
- [11] tsn, p. 3, Palma.
- [12] tsn, p. 5, Palma.
- [13] tsn, pp. 48-49, Delim.
- [14] tsn, pp. 3-4, Palma.
- [15] tsn, pp. 8-9; pp. 12-13, Delim.
- [16] tsn, pp. 10-11, Delim.
- [17] tsn, p. 4, Palma.
- [18] tsn, p. 3, Palma.
- [19] tsn, pp. 35-36, Delim.
- [20] Record, pp. 31-32.
- [21] Exh. "L", p. 35, Record.
- [22] tsn, pp. 33-40, Delim.
- [23] tsn, p. 45, Delim.
- [24] People vs. Urro, 44 SCRA 473; People vs. Manipula, 52 SCRA 1.

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