

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SANTIAGO TATLONGHARI, ET AL., DEFENDANTS; SANTIAGO
TATLONGHARI, AMBROSIO TATLONGHARI, FAUSTO MERCADO,
AGAPITO MERCADO AND ...**

G.R. No. L-22094. March 28, 1969

Ponente: REYES, J.B.L. J.

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REYES, J.B.L. J.:

Appeal from the judgment of conviction of the Court of First Instance of Camarines Sur, in Criminal Case No. 3590, sentencing therein accused Santiago Tatlonghari, Fausto Mercado, Agapito Mercado, Tiburcio Lalogo and Cirilo Cueto to life imprisonment and the accused, Ambrosio Tatlonghari, to suffer the indeterminate penalty of from six years, one month and eleven days of prision mayor to twelve years, five months and eleven days of reclusion temporal; all of them to indemnify the heirs of the deceased, Victor Eje, in the sum of P6,000.00, and to pay the costs of the proceeding.

Arraigned before the Court of First Instance of Camarines Sur, Santiago Tatlonghari, his son, Ambrosio Tatlonghari, Fausto Mercado, his son, Agapito Mercado, Tiburcio Lalogo and Cirilo Cueto pleaded not guilty to the charge of murder recited in the information, as follows:

"That on or about August 25, 1954 in the evening in the barrio of Port Junction, municipality of Ragay, province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, said accused, armed with bolos, confederating, conspiring, and mutually helping each other, and with evident intent to kill Victor Eje, and by means of treachery, did then and there, intentionally, wilfully, criminally, and feloniously, attack and assault said Victor Eje with stones and bolos, as a result of which the victim received contusions and wounds in different parts of his body, to wit:

1. Large gaping wound located at the temple left side, about 1 inch in diameter with complicated fracture of the skull exposing a portion of the brain thereat;
2. Stab wound about 5 inches in length extending from the upper portion of the forehead midline to the upper jaw, traversing the left side of the nose. It divides the face into two and also dividing the bones of the face on its path. The upper jaw is also divided into two thus loosening the front teeth of same;
3. Stab wound about 3 inches in length located at the outer canthus of the right eye piercing the skull;
4. Stab wound about 5 inches in length located at the jaw left side severing the attachment of the mandible from the rest of the skull and cutting the lower lobe of the left ear;
5. Stab wound at the neck just below the chin cutting the trachea esophagus, and all the vital blood vessels thereat reaching as far as the vertebral column;
6. Long stab wound extending from the median portion of the upper portion of the sternum down to the umbilicus, exposing outside the greater omentum small intestine and the lower portion of the liver;

7. Stab wound about 3 inches in length incising the skin exposing the bones of the left hand; and

8. Contusion with swelling at the back right side,

and as a consequence thereof Victor Eje died instantaneously.

"The aggravating circumstances of treachery, nocturnity, and superior strength were present in the commission of the crime."

The prosecution tried to establish its case through the testimonies of witnesses:

FELIMON ALMARES, who declared that at about 7:30 in the evening of 25 August 1954, in the barrio of Port junction, Ragay, Camarines Sur, while he and Victor Eje were walking along the railroad track towards their homes in barrio Catabangan, they met the accused, Santiago Tatlonghari and Tiburcio Lalogo, in front of the house of one Marcos Nacionales; that thereupon, Santiago Tatlonghari shouted, "listo kayo mga beta" (get ready, boys), after which stones rained on them hitting him (Almares) on the left knee;[1] that thus hurt, the witness rolled to the right side of the railroad track and hid himself among the talahib and cogon grasses that abound in the area; that before rolling to safety, he saw Santiago tatlonghari and Tiburcio Lalogo hitting with bolos Victor Eje, who was then lying on the ground with his two hands raised upward;[2] that he saw the stabbing because there were beams of light coming from the houses of Catalino Arellano, Marcos Nacionales and Juan Corod, which were within the vicinity;[3] that Santiago Tatlonghari had also a flashlight in his left hand which was focused on the victim while the latter was being hit with bolos;[4] that thereafter, Fausto Mercado, Agapito Mercado, Cirilo Cueto and Ambrosio Tatlonghari appeared from the cogon grasses along the railroad track and, with Santiago Tatlonghari and Tiburcio Lalogo, viewed the prostrate body of Victor Eje; then they left the place together, going eastward in the direction of the railroad station;[5] that when the group was gone he left his hiding place and headed for home. He related the incident to Pedro Comia and Epifanio Bico when they came to see him a little later.

MARCOS NACIONALES testified that, about 7:30 in the evening of 25 August 1954, he was taking his supper with his family in their house near the railroad track in Port Junction when he heard the sound of falling objects in front of their house; that he finished his meal and then peeped through the window; that he saw Santiago Tatlonghari standing near the rails with a bolo in his hand and near his feet lay the body of a person;[6] that Santiago Tatlonghari also shouted in Tagalog, "Come out those who sympathize with Victor Eje, this will be your last"; that he noticed standing on the eastern side of his house Ambrosio Tatlonghari and Agapito Mercado, while on the western side stood three persons who he failed to recognize on account of darkness;[7] that when he, his wife and children went down their house and ran towards the house of barrio lieutenant Pedro Comia, they were accosted by Santiago Tatlonghari who focused his flashlight on them and inquired if they (the witness and companions) were enemies, to which they answered in the negative; that upon reaching the house of Pedro Comia, they informed the latter of the killing near their house; that the following morning, they saw the corpse of Victor Eje on the spot where the night before the witness had seen Santiago Tatlonghari standing with a bolo in his hand.[8]

FORTUNATO ARANAS, on the other hand, declared that at about 8 o'clock in the evening of 25 August 1954, while he was resting at the front yard of his house, Santiago Tatlonghari, Fausto Mercado, and Agapito Mercado passed by going westward in the direction of Catabangan; that Santiago Tatlonghari was then carrying a bolo and a piece of wood; that when the trio was, in front of the house of Catalino Arellano,[9] Santiago Tatlonghari shouted, "sigue mga bata", and with this followed the sound of falling objects; that, after some time, Cirilo Cueto, Tiburcio Lalogo, Agapito Mercado, Fausto Mercado, and Ambrosio Tatlonghari returned going towards Ragay; that Santiago Tatlonghari, who was the last to pass by, warned him, "don't walk without light, or you might be

mistaken for someone else. Victor Eje is dead already";[10] that later, Pedro Comia and Epifanio Bico passed and proceeded to the place where the body of Victor Eje was found.

PEDRO COMIA, barrio lieutenant of Port Junction, testified that in the evening of 25 August 1954, he was tending his store when Marcos Nacionales and his wife, both trembling, arrived and informed him of overhearing people quarreling in front of their house; that he then took his flashlight and proceeded to the place indicated by the couple; that he found in front of the house of Na-cionales the corpse of Victor Eje with stab wounds; that after he had looked around the place he decided to go home; that on the way he saw Santiago Tat-longhari, Ambrosio Tatlonghari, Cirilo Cueto, Tiburcio Lalogo, Agapito Mercado and Fausto Mercado standing in front of the house of Fortunato Arenas;[11] that he was able to recognize them because, when he focused his flashlight on the group, they all faced him.[12]

DR. FELIX MACALINO, a charity physician of Sipocot, Camarines Sur, who conducted the autopsy on the body of Victor Eje, testified that the deceased received seven stab wounds and a contusion; that by the nature of four of the wounds, they must have been inflicted while the victim was in a lying position; that any of the six wounds sustained by the victim could have caused the death; that the wounds were inflicted by a sharp instrument like a bolo, while the contusion (at the back) could have been caused by a blunt object like a stone.

The defense of the accused is alibi, and that other persons committed the crime.

SANTIAGO and AMBROSIO TATLONGHARI testified that on the night of 25 August 1954 they were locked in the municipal jail of Sipocot, Santiagohaving hurt one Pedro Gallano after several rounds of gin at the Si-pocot railroad canteen that afternoon. They were allegedly released only at about nine o'clock of the following morning (26 August).

The above allegation was corroborated by Sgt. REYNALDO ZAMORA of the Sipocot municipal police, who testified that at about two o'clock in the afternoon of 25 August 1954, having received information that there was trouble in the railroad station, he went there and found Santiago and Ambrosio Tatlonghari drunk; that he brought the two to the municipal jail to sober up; that when he returned to the municipal building at about seven o'clock in the evening he informed the two that they could already go home, but the latter requested that they be allowed to stay because there was no more train trip at that time; that, by mistake, the jail was locked, so that Santiago and Ambrosio Tationghari remained inside until he (the witness) reported for duty at about nine o'clock of the following day. The incident allegedly was recorded in the police blotter (Exhibit 1).

Accused FAUSTO MERCADO, for his part, claimed that on 25 August 1954 he went to the house of Artemio Barento in barrio Sinuknipan,13 Del Gallego, Camarines Sur, upon learning that his godchild (Artemio's son) was ill; that he arrived in the house of Artemio Barento at about 4 o'clock in the afternoon and stayed there until 4:30 in the morning of 26 August 1954.

ARTEMIO BARENTO, confirming the allegation of Mercado, declared that the latter was in his house from 4 o'clock in the afternoon of 25 August 1954 until 4:30 in the morning of the next day.

Accused AGAPITO MERCADO testified that at about 6 o'clock in the afternoon of 25 August 1954, he attended a party held in the house of Eriberto Juri in Barrio Inangdawa, Ragay, Camanines Sur that the dancing lasted until about 2 o'clock in the morning of 26 August 1954; that when the party broke up he stayed in the house of Juri until about 6 o'clock in the morning when he took the train for Port Junction.

ERIBERTO JURI corroborated the testimony of Agapito Mercado. He declared that on 25 August 1954 Mercado was attending the dance that followed the baptism of his only child; that the party started at about 6:30 in the after-noon of 25 August 1954 and broke up at about 2 o'clock in the morning of the following day (26 August);

that for the duration of the party Agapito Mercado was in their house. He left only in the morning of 26 August.

Accused CIRILO CUETO, a blacksmith, has this to say: that from 4 o'clock in the afternoon of 25 August 1954 until the morning of the next day he never left his house; that he was then with his wife, children and one Benito Javier that he learned of the death of Victor Eje only in the morning of 26 August 1954 when he fetched water for their use in the house.

BENITO JAVIER, a farmer of Dal Rosario, Lupi, Camarines Sur, testified that on 25 August 1954 he went to the house of Cirilo Cueto to have his plow repaired arriving there at about 11 o'clock in the morning; that as the ordered work was not finished, he decided to pass the night in Cueto's house; that from the time Cueto stopped working on his plow at about 6:30 in the afternoon until the time the witness went to sleep at past 8 o'clock Cueto was in his house; that he (Javier) left Port Junction at about 7 o'clock in the morning of 26 August 1954, after he was told by Cueto that the repair of the plow cannot be continued because a relative of his, referring to Victor Eje, had died.

Accused TIBURCIO LALOGO, like the others, denied the charge that he took part in the commission of the crime. He testified that, on the night in question, he was in his house with his wife and father-in-law; that he did not go out of the house the whole evening and learned of the death of Victor Eje only in the morning of 26 August 1954 from people passing by their house.

The defense then presented the testimonies of GREGORIO CANTOR and MARIANO PAET to the effect that they were in the house of Juan Corod when the stabbing incident happened; that they recognized the assailants of Victor Eje to be Porfirio Atienza, Victoriano Ragodon, and another fellow who was unknown to them; that after the trio left Epifanio Bico and Pedro Comia arrived and placed a kerosene lamp near the cadaver of Eje.

PORFIRIO ATIENZA, a prisoner serving sentence in the National Penitentiary, also took the witness stand for the defense. He declared having known the deceased, Victor Eje, who had a quarrel with his father during the Japanese occupation; that on 25 August 1954, when Eje met him at the railroad station, the former asked him if he still bore grudge against him (Eje); that Eje slapped him, but when Eje drew his bolo from its scabbard he (Atienza) also took hold of his bolo and hit the former successively, killing him; that, at the time, he was accompanied by Victoriano Ragodon and Abraham Mariano who did not take part in the altercation but merely saw to it that the companions of Eje would not be able to help the latter.

On cross-examination, however, this witness admitted having been arrested by the Manila Police on 20 August 1954 at the North Harbor in Manila for concealment of a balisong; that he was tried therefor, was convicted, and was confined at the Manila City Jail for about 20 days.[13] The prosecution, likewise presented evidence that for this offense Atienza was sentenced to a fine of P25.00 with subsidiary imprisonment in case of insolvency; that he was arrested and confined in the Manila City Jail on 20 August 1954 and was released only on 8 September 1954 (Exhibits B & C, Rebuttal).

On 11 April 1960, the trial court rendered judgment, finding the accused to have acted in conspiracy in committing the crime; declared them guilty of murder and sentenced them to life imprisonment, except Ambrosio Tatlonghari who, on account of minority,[14] was decreed to suffer the penalty of from six years, one month and eleven days of prison mayor to twelve years, five months and eleven days of reclusion temporal; to indemnify the heirs of the deceased; and to pay the costs.

All the accused, except Tiburcio Lalogo who jumped bail before the sentence was read in the lower court and has remained at large since then appealed to this Court.

The issues raised by the appellants in this instance boil down to one thing: whether or not the court a quo was

correct in finding herein appellants Santiago Tatlonghari, Fausto Mercado, Agapito Mercado and Cirilo Cueto[15] guilty of murder for the death of Victor Eje and in imposing upon them the cor-responding penalty therefor.

Considering the evidence presented in this case, we will take the appeal of Santiago Tatlonghari separately. The finding of the trial court on the guilt of this appellant was based on his identification by the prosecution witnesses as one of the assailants of the deceased, Victor Eje. Felimon Almares positively named him as the person who gave the signal to hidden companions, which signal was followed by the "raining" of stones on him and the deceased; that he was one of the two persons who stabbed Victor Eje as the latter lay on the ground with hands raised upward. Marcos Nacionales declared having seen this appellant with bolo in hand standing near the fallen body of a person[16] and heard him daring any sympathizer of Eje to come out that when he and his family went down their house to go to the house of barrio lieutenant Pedro Comia, it was this ap-pellant who accosted them and inquired if they were enemies. Fortunato Arenas and Pedro Comia also testified having seen appellant Tatlonghari, with his five co-accused, in the vicinity of the crime immediately before and after the slaying incident took place.

It is true that the defense presented testimonial evidence and a police blotter (Exhibit 1) to prove that on the night of the killing appellant Santiago Tatlonghari and his son, Ambrosio, were inside the Sipocot municipal jail, and that somebody else committed the crime. In disregarding such evidence for the accused and giving credence to the version of the prosecution instead, the trial court duly considered the facts that the entries in the police blotter, Exhibit 1, were not duly accomplished,[17] thus making them unreliable; that with the admission of Atienza and the rebuttal evidence of the prosecution, the defense theory that the crime was committed by said witness (Atienza) was totally discredited. Upon the other hand, the prosecution witnesses were observed by the trial court to have testified in a natural and straightforward manner, indicating that they could be telling the truth.

Of course, it is claimed for appellant Santiago Tatlonghari that the prosecution witnesses testified the way they did because of personal grudges against him. It is contended that witness Almares suspected Tatlonghari of having informed the Philippine Constabulary on the former about a carbine, which information resulted in the confiscation of the weapon by the authorities; that witness Nacionales begrudged Tatlonghari's refusal to allow his son, Ambrosio, to be married to a niece of said witness; that Fortunato Arenas was under the influence and dictation of Mariano de Torres, who was confined in the PC stockade in 1952 for Huk activities, upon information furnished by Tatlonghari; and that witness Pedro Comia was one of the group that petitioned for the transfer of certain teachers from the barrio school, which petition was opposed by Tatlonghari, then barrio lieutenant and president of the Parent Teachers Association.

We find the allegation not worthy of belief. The reasons for the alleged individual grudges of the witnesses against appellant being so flimsy and un-certain, it is incredible that they could constitute as sufficient motive for an average individual to conjure up so serious a charge as murder and thereby send an otherwise innocent man to a long stretch of prison term. At any rate, the prosecution witnesses were subjected to cross-examination by counsel for the defense, and the falsity of their declarations, if indeed there were, could have been ferreted out and exposed. As it is, the trial judge even found the declarations of said witnesses more credible and rang of truth.

Neither is the defense helped by the testimonies of witnesses Porfirio Atienza, Gregorio Cantor and Mariano Pact that the crime was committed by Atienza and two others. On the Contrary, the establishment of the fact that Atienza was confined in the Manila City Jail on 25 August 1954 and, therefore, could not have been in Camarines Sur slashing Victor Eje to death with a bolo, worked only to weaken further the alibi of the accused.

The issue in the case being hinged on the credibility of witnesses, the ruling of the court below must be sustained. For, in the absence of proof that there has been misappreciation of evidence,[18] - and there is no such proof in

this case - the conclusion of the trial judge, who had the opportunity of observing the demeanor and conduct of the witnesses while testifying, deserves the respect of the reviewing tribunal.

Counsel de officio for appellant Santiago Tatlonghari advances the argument that, if at all, the latter should only be found guilty of homicide, the prosecution allegedly having failed to prove that treachery, nocturnity and abuse of superior strength attended the commission of the crime. It is claimed that there was no treachery, because when Santiago signalled to his "boys" to get ready Victor Eje was already sufficiently warned of the impending attack on him; there was also no showing that the accused purposely sought night-time for the commission of the crime, and that they took undue advantage of superior strength.

There is no merit in the argument. The fact that the attack on the victim was preceded by a cry or signal from this appellant does not make such attack less treacherous. It must be remembered that the utterance was not directed to the deceased and his companion, who were then walking along the railroad track apparently unaware of the danger lying before them; and the falling of stones that followed and the attack on Eje happened in such close succession that it is safe to conclude that the latter must have been completely taken by surprise. To be sure, an assault made so suddenly and on a victim that lay on the ground, and who could do nothing more than raise his two arms upward perhaps in the futile attempt to cover himself against the blows of his assailants, can not be anything but an attack on a totally defenseless person and characterized by treachery.[19] On the other hand, the circumstances of nighttime and abuse of superior strength were not considered by the court below. Thus, notwithstanding the finding of the presence of the qualifying circumstance of treachery, the penalty was only imposed in its medium period - life imprisonment - denoting the absence of any circumstance mitigating or aggravating the offense.

As regard the appeal of Fausto Mercado, Agapito Mercado, Ambrosia Tatlonghari and Cirilo Cueto, the issue involved again depended on credibility.

The prosecution presented the declarations of witnesses Felimon Almares, Marcos Nacionales, Fortunate Aranas, and Pedro Comia to prove that herein appellants were with accused Santiago Tatlonghari and Tiburcio Lalogo on the occasion Victor Eje was slain. For its part, the defense tried to establish that, on the night in question, appellants were in some place other than Port Junction.

The trial court, giving due weight to the evidence for the prosecution, held that appellants Ambrosio Tatlonghari, Fausto Mercado, Agapito Mercado, and Cirilo Cueto were with the other accused when the crime took place. There is no plausible reason for us to set aside this ruling, not only because it is essentially a resolution on the credibility of witnesses, the correctness of which we have already upheld, but also because of the well-recognized rule that alibi, the weakest of defenses, can not prevail over the positive identification of the accused by witnesses.

The only point to be considered then is, conceding that herein appellants were in the group of Santiago Tatlonghari on the night when Victor Eje was waylaid and slain, whether or not the trial court was correct in holding them equally guilty of murder and in sentencing them to life imprisonment.

Admittedly, nobody saw Ambrosio Tatlonghari, Fausto Mercado, Agapito Mercado, and Cirilo Cueto deliver blows to the deceased, or perform some other act directly linked to the cause of death of the victim. All that the record shows is that these appellants were with Santiago Tatlonghari and Tiburcio Lalogo shortly before, during, and after the killing of Victor Eje, and that they hurled stones at the latter and his companion, without further aggression. When and where these appellants met the actual killers prior to the crime, or what was agreed upon with them, does not appear. No evidence exists that they were armed on the occasion, or that these appellants had adequate reason to wish the deceased out of the way. From this paucity of established facts, we do not feel justified in concluding that these accused previously conspired and concerted with the slayers to take the life of

Victor Eje in the absence of clear proof that the killing was in fact envisaged by them, they can not be held responsible therefor as co-conspirators, there having been no satisfactory showing that the killing was done in furtherance of the conspiracy (People vs. Basisten, 47 Phil. 493; People vs. Cerdenia, 51 Phil. 393; People vs. Garillo 85 Phil. 634; People vs. Daligdig, 89 Phil. 614).

The record is clear, however, that, although they had not acted pursuant to previous concert, the appellants, Fausto Mercado, his son, Agapito, Ambrosio Tatlonghari, and Cirilo Cueto, did knowingly aid the actual killers by casting stones at the victim, and distracting his attention. However, their cooperation, although done with knowledge of the criminal intent, was not indispensable to the murderous assault by Santiago Tatlonghari and the fugitive Tiburcio Lalog, for which reason the four should be held liable only as accomplices in the murder of the late Victor Eje and sentenced to a penalty one degree lower to that of the principal participants in the crime (except in the case of Ambrosio Tatlonghari whose appeal has been previously dismissed for failure to file his brief). In People vs. Ubiña, et al., 97 Phil. 515, 534, this Court ruled as follows:

“ - - - - - The act of Romero Pagulayan in following the deceased Carag as the latter went to Bañag, and thus assuring the conspirators of his presence at said place, is also merely an act of complicity. Neither did they in any manner induce the commission of the offense they joined the conspirators after the latter had decided to commit the act. Under the circumstances, they do not fall under any of the three concepts defined in Article 17 of the Revised Penal Code, and may only be considered guilty as accomplices. The same conclusion is strengthened by the principle that when doubt exists as to whether persons acted as principals or accomplices, the doubt must be resolved in their favor and they should be held guilty only as accomplices (People vs. Tamayo, 44 Phil. 38; People vs. Bantagan, 54 Phil. 834).”

In the basic decision of People vs. Tamayo, 44 Phil. 38, this Court, after an exhaustive review of the authorities, laid down the principle in the following words (cas. cit. pages 52 and 53):

“But while the authorities above collated conclusively show that a man cannot be an accomplice in a crime without participating in the criminal design of the principal, something remains to be said about the acts from which such participation in the criminal design can be proved. Upon this point it is undoubtedly true that concert of action at the moment of consummating the homicide, and the form and manner in which assistance is rendered, may determine complicity where it would not be otherwise evident. Thus, in a decision of December 29, 1884, the case was that after two individuals had beaten another and thrown him to the ground, the accused got upon him, trampling his breast and face. As a consequence of the injuries received from the beating by the first two, the injured person died. It was held by the supreme court of Spain that the accused was guilty in the character of accomplice, saying: Although the accused did not intervene in giving the mortal injury caused by the cudgel, for which reason he is not comprehended in article 13, he simultaneously trampled upon the deceased who was on the floor; and this simultaneity of acts contributing to the homicide makes him an accomplice in the same.” (Decision, Dec. 29, 1884; Viada, vol. 1, page 375.)”

After analysis of other decisions of the Spanish Supreme Court, this Court then concluded:

“Now although, as thus demonstrated, participation on the part of an accomplice in the criminal design of the principal is essential to the same extent as such participation is necessary on the part of one charged as co-principal, nevertheless, it is evident, -- and the cases above cited abundantly prove -- that, as against an accomplice, a court will sometimes draw the inference of guilty participation in the criminal design from acts of concert in the consummation of the criminal act and from the form and manner in which assistance is rendered, where it would not draw the same inference for the purpose of holding the same accused in the character of principal. This is because, in case of doubt, the courts naturally lean to the milder form of responsibility.”

IN VIEW OF THE FOREGOING, the sentence of life imprisonment meted out to appellants Santiago and

Ambrosio Tatlonghari is affirmed. Appel-lants Fausto Mercado, Agapito Mercado and Cirilo Cueto are sentenced, as accomplices, to an indeterminate sentence of not less than ten (10) years of prision mayor, medium degree, to fifteen (15) years of reclusion temporal, medium. All the accused are further sentenced in solidum to pay the heirs of Victor Eje an indemnity in the sum of P12,000.00 and the costs.

The decision under appeal is accordingly modified in the mariner above described.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Page 2, hearing of 15 November 1955.

[2] Page 3, hearing of 15 November 1955.

[3] Page 5, hearing of 15 November 1955.

[4] Page 6, hearing of 15 November 1955

[5] Page 3, hearing of 15 November 1955.

[6] Page 46, hearing of 20 March 1956.

[7] Page 44, hearing of 20 March 1956.

[8] Page 46, hearing of 20 March 1956.

[9] About 50 meters away from his house.

[10] Pages 17-18, hearing of 20 February 1956.

[11] Pages 67-68, hearing of 17 May 1956.

[12] Page 71, hearing of 17 May 1956.

[13] Page 73, hearing of 20 April 1959.

[14] Ambrosio Tatlonghari was only 17 years of age when the incident happened.

[15] By resolution of this Court of 18 February 1966, the appeal of Ambrosio Tatlonghari was dismissed for his failure to file the required brief.

[16] It is not denied that the body of Victor Eje was found in the particular place referred to by this witness.

[17] According to the Manual of Instructions, the surnames of persons appearing in the daily record of events are to be indexed in the blotter alphabetically, and yet the names of the Tatlonghari father and son, who were allegedly arrested on 25 August 1954, did not appear in the index; that although they were supposedly released on 26 August 1954, said release appeared as entry also for 25 August 1954; and that there is no procedure observed in the closing of entries in the blotter for a particular day. The corresponding page is simply left blank, which would make easy the insertion of any entry thereafter.

[18] People vs. Labis, L-22087, 15 November 1967, 21 SCRA 875; People vs. Gumahin, L-22357, 31 October 1967, 21 SCRA 729; People vs. Secapuri, L-17548-19, 28 February 1966, 16 SCRA 199, and cases cited therein.

[19] People vs. Labis, supra.

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