

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RAFAEL LACSON, ET AL., ACCUSED AND APPELLANTS.***G.R. No. L-18188. February 23, 1961*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9d83252e634c/>**PER CURIAM:**

Former Governor Rafael Lacson of Negros Occidental; Jose Gayona, Jr., former mayor of Magallon; Manuel Ramos, former mayor of La Castellana, all of the province of Negros Occidental; Ceferino Laos, Anatolio G. Vazquez, Ignacio Altea, Jesus Agreda, Juanito Fernando, Rafael Morada, Juanito Labaosas, Joaquin Balota and Felix Camarines, chief of police and policemen, respectively, of the municipality of Magallon; Joaquin Tolentino, Ernesto Camalon, Norberto Jabonete, Felix Alipalo and Mariano Pahilanga, all special policemen or peace and order supervising agents, popularly known as SPs (Special Police); Blas V. Moleño, Gaudencio Valencia, Rodolfo Ramos, Vicente Hajar, Raymundo Adle, Graciano Peras and Florentino Salgo, chief of police and policemen, respectively, of the municipality of La Castellana; Felipe B. Hechanova, chief of police of Valladolid, and Jose Valencia, former acting provincial warden of Negros Occidental and chief of the provincial guards, were accused of the crime of murder for the killing of Moises Padilla, committed during the period comprised between November 11 and November 17, 1951, about and along the municipalities of La Castellana, Magallon, Isabela, Valladolid, and Bacolod City of the province of Negros Occidental. The crime was allegedly committed with the attendance of the following aggravating circumstances: (a) treachery, by taking advantage of superior strength, with the aid of armed men and employment of means to weaken the defense of the victim and afford impunity to the accused; (b) unnecessary cruelty by deliberately and inhumanly augmenting the suffering of the victim and outraging and scoffing at his person and corpse; (c) nighttime and in an uninhabited place (despoblado); and (d) use of motor vehicles (Information, pp. 61-64, rec.).

When arraigned, all the accused individually pleaded not guilty to the charge. After a protracted trial lasting for more than two (2) years, five (5) of the 27 accused abovenamed, namely: Graciano Peras, Gaudencio Valencia, Felipe B. Hechanova, Rodolfo Ramos and Blas Moleño, were acquitted due to insufficiency of evidence and failure of proof of guilt beyond reasonable doubt. Rafael Lacson, Jose Gayona, Jr., Claudio Montilla, Manuel Ramos, Ceferino Laos, Anatolio G. Vasquez, Ignacio Altea, Jesus Agreda, Juanito Fernando, Felix Camarines, Rafael Morada, Juanito Labaosag, Joaquin Balota, Joaquin Tolentino, Ernesto Camalon, Norberto Jabonete, Felix Alipalo, Mariano Pahilanga, Raymundo Adle, Florentino Salgo, Manuel Ramos, and Vicente Hajar, 22 in all, were found guilty beyond reasonable doubt of the crime charged, attended with the aggravating circumstances enumerated in the information without any mitigating circumstance to offset them, and were thereupon sentenced to death, to pay, jointly and severally, the heirs of the victim Moises Padilla indemnity in the amount of P6,000; and to pay the costs of the proceedings.

Pursuant to the provisions of Section 9 of Rule 118 of the Rules of Court, the case was elevated to this Tribunal for automatic review, apart from the fact that the above named twenty two (22) convicted accused have individually interposed their appeals from said decision.

The evidence for the prosecution is to the effect that Moises Padilla launched his candidacy to the mayorship of

the newly—created municipality of Magallon under the Nacionalista Party banner for the elections set for November 13, 1951. On November 4, 1951, Dr. Alfredo Hermano, a prominent resident of Isabela, with one Dading Gegoncillo and another person, went to Padilla's house. Not finding him there, they talked with Padilla's mother, and communicated the wish of Governor Lacson (a Liberal) that Padilla should withdraw his candidacy; but when informed, Padilla refused to pay heed. Well-meaning friends likewise sought to persuade him to withdraw his candidacy; but Padilla stubbornly rejected their advice.

In the late afternoon of November 11, a meeting of the Liberal Party was to be held in the public plaza of Magallon. The then Governor Lacson, who was guarded by a retinue of armed special police (known as SP) and provincial guards (armed, organized and maintained under his control), arrived at a little past 8 o'clock in the evening, accompanied by La Castellana mayor, appellant Manuel Ramos, Lacson's sons, and Mayors Ykalina of Vallodolid and Soliguen of Pontevedra. The SPs (special police) were under the joint command of appellants Tolentino, Camalon, and Jabonete.

On the way to the Magallon meeting, Governor Lacson and his party stopped at Mayor Manuel Ramos' house in La Castellana and there ate supper and held a brief conference in the sala of appellant Ramos' house. Aside from the governor, the following were present: appellant Manuel Ramos, Pancho Pineda, Decoy Bautista, Joaquin Matus, appellants Tolentino, Salgo and Vicente Hajar and others. In the course of the conference, Lacson said, "Maneng (Ramos), if you would follow what I said, you have policemen in La Castellana and policemen in Magallon. Mayor Gayona has also policemen. You should procure the arrest of Moises Padilla and all that you need would be O. K." Upon hearing Lacson's statement, Ramos stood up and said, "Did you hear what Governor Lacson said?" As Lacson and party were leaving, Lacson was overheard to have said to his four companions: "Upon arriving at Magallon and in case Moises Padilla is seen, he should be apprehended or arrested." Then Lacson and party left to attend the meeting. At the meeting, Lacson ascended the platform, escorted by Magallon mayor appellant Jose Gayona, Jr., while appellant police chief Ceferino Laos of Magallon posted himself near the platform. The rest of the municipal police and the SPs, all fully armed with rifles, deployed around the plaza. During the meeting, appellant Ramos spoke and attacked Moises Padilla and threatened that, win or lose, Padilla would not assume the membership of Magallon because they (the opponents) would go after him as soon as the elections were over. In his barter trade against Padilla, Ramos stated:

"* * * For the good and welfare of the town because Magallon is newly organized, they should select the best man for mayor. You should select either one of these two people. Either Moises Padilla or Mayor Gayona. Why should (you) select Moises Padilla. He is a criminal. During the guerilla times he killed many people. He had my brother killed. He even ordered to kill my brother. Now his time has come. He has got to pay his debt. Why should (you) elect Moises Padilla when he is a trump. He is a bum-brown (bum around). He could hardly buy his drawers. He used to beg here in Negros and also in Manila, He is a dissident or hukbalahap. He is going to organize communism here in Negros. Why should you vote for Padilla. He is a communist."

"* * * This time, the Liberal Party will win. Whether Moises Padilla likes it or not, the Liberal Party will win."

Governor Lacson then spoke saying that the NBI (National Bureau of Investigation), marines, and the PC (Constabulary) could do nothing about the Negros Occidental situation inasmuch as he (Lacson) was responsible for Quirino's victory in the last presidential elections (in 1949) and his men could do any thing without anybody preventing them. Lacson further assured his listeners that whether they like it or not, appellant Gayona (Padilla's opponent) would be the Magallon Mayor as, otherwise, he (Lacson) would stop financial aid to the municipality should the electorate vote for Moises Padilla. Referring to Padilla, Lacson declaimed:

"* * * If Moises Padilla could (tan) obtain more than twenty percent of the total votes, the Capitol is closed for him. This is like a game of cards. Moises Padilla is betting on a horse and Jose Gayona bets for (on) the ace."

* * *

"* * * 'Then as Moises bets on the horse, he will ride on the horse and run to the mountains, and there he would organize Hukbalahaps. Why would you vote for Padilla? Because he is a dissident, I saw him, he was going with. Luis Taruc in Manila . Why should you vote for him when lie would place the town in danger. In order that the town of Magallon will have peace, and there will be help from me, vote for Jose Gayona, Jr. This Padilla is a criminal. In order that Magallon would be peaceful, it should be better to eliminate Padilla.' "

Lacson and his retinue of armed escorts, at past 10 p.m. , proceeded to the municipality of Isabela , where a meeting at the plaza was arranged by mayor Claudio Montilla.

In his speech during the Isabela rally, appellant Rafael Lacson warned the public not to vote for Jacinto Montilla, appellant Claudio Montilla's opponent. Lacson further warned his opponents that he 'was sure to win the election and would stay in office for four years, two years of which he would dedicate to going after his opponents and the remaining two years to cultivating the friendship of whoever may be the occupant of Malacañang, whether Quirino, Laurel or Avelino, as if they were cards, so that he will always remain in power". As in the case of the Magallon meeting, Lacson was heavily guarded by his SPs and special agents, among whom were appellants Joaquin Tolentino and a certain Fortunato Chavez. Also present in the governor's group were his two sons and the appellants Norberto Jabonete and mayor Claudio Montilla, as well as Liberal Party official candidates for councilors.

After the meeting, Lacson and his party repaired to the house of Montilla where they had supper and a conference, presided over by Lacson. Witness Melecio Borromeo, one of those present at said conference, spoke and expressed fear for Gayona's candidacy in Magallon, as Padilla appeared to be gaining ground among the electorate. To this Lacson replied that there is "nothing to fear" about Magallon as he had already given instructions to Laos (the Magallon chief of police) to guard all possible escape routes of Padilla. Padilla could not escape, Lacson continued, because after the elections he would be arrested and manhandled and his buttocks skinned and vinegar poured on them, "and in that manner he will not last long." Padilla should not be merely kept in jail as he had "many lawyer friends who will help and bail him not". All those present in the conference nodded as if in approval of what the governor said. Lacson also turned to major Montilla and said: "Claudio, make a list of the hacenderos who are against us. We shall burn their canefields, after the election". Before leaving, Lacson instructed Montilla to fix the case of the rebel candidates and report to him the next day. After hearing the governor speak regarding Padilla, Montilla smilingly said: "So the governor is really decided to do whatever things against those who oppose".

Among those present in the house of Montilla that evening of November 11, aside from Lacson, were Fortunato Chavez, Jedidea Roca, Vito Miranda, Melecio Borromeo, chief of police Miana, Vice Mayor Jose Moises, Carlos Borromeo, Leon Garibay, Gayo Muchuelas, Doctor Hermano, Rustico Borromeo, Lacson's two sons, Norberto Jabonete and Joaquin Tolentino.

Lacson's tremendous power and the fear that he and his armed retainers caused is indicated by the circumstance that Leon Garibay, one of the candidates in Isabela, readily acceded to Lacson's wish to withdraw his candidacy.

At 6 p.m. (or thereabouts) of November 12, the Nacionalista in Magallon, having been refused a permit to hold a meeting at the plaza by town mayor Gayona, held a rally in a private lot at the intersection of Jacson and McKinley streets of said town. Padilla and about 500 followers attended. Shortly after it began, a messenger came and warned the gathering that the SPs were coming, wherefore, Padilla and his group, including Narciso Dalumpines, dispersed. A little later, the SPs arrived headed by appellants Tolentino, Norberto Jabonete, Camalon, and Jose Valencia, accompanied by local Chief of Police Ceferino Laos, all fully armed and riding on

pick-up trucks. Their weapons included Thompson, sub-machine guns, rifles, carbines, and pistols of various calibers. Failing to find any rally, the SPs proceeded to the town plaza and the house of Padilla, but they failed to find him. The SPs then went to appellant Gayona's house.

At noon of November 12, the day preceding that of the election, appellant Jose Valencia, accompanied by provincial guards, arrived at mayor Montinola's house in Isabela. Valencia revealed that he was there upon instructions from Lacson to ask one Rallos to withdraw his candidacy at Himamaylan, or else something would happen to him. Then, two ROTCs (assigned to maintain order in the elections) arrived to investigate the mauling by Valencia of an NP candidate in Santander. After a talk with the ROTCs, Valencia gathered his men and said to them: "Let us now look for Moises Padilla and liquidate that fool". Jedidea Roca, who was present and heard Valencia speak, became alarmed for the safety of Padilla, his friend and former comrade-in-arms. Roca looked for a car to contact Padilla. As he could not find any, he decided instead to send a warning note (Exhibit "C") of the following tenor:

" November 12, 1951

'Dear Toto Mosing,

If you had the chance to escape tonight, do it. Jose Valencia is going there to liquidate you. Tell Cente to watch his move.

Deding"

In his hurry to avoid detection, Roca wrote the warning note on a piece of cigarette wrapper, rolled the same, and wrapped it in another piece of paper, and gave it to a helper, Ernesto Rico, with instructions to deliver it to one Alejandro Sait, who owned a stall in the market of Magallon, for final delivery to Padilla. Rico confirmed the next day that he successfully delivered the note (Exhibit "C"), pursuant to Roca's instructions.

At about 10:00 o'clock of the evening of November 12 (eve of the elections), Moises Padilla, who was affectionately known as "Toto Mosing" to his friends and supporters, was visited by his leaders and followers at his house in Magallon, to discuss politics. On that occasion, Padilla, who had already received Roca's note, read the contents thereof to the gathering; then Padilla delivered the note, Exhibit "C", to Vicente Ablao, with instructions to keep it well and, in the event something happened to him present it to the Department of Justice investigators as soon as they come to Negros Occidental.

Around midnight of November 12, 1951, one Sgt. Pidlawan of Magallon came to the residence of Judge Gaudencio Occeño, Justice of the Peace of Isabela and concurrently. Acting Justice of the Peace of Magallon, bearing an already prepared search warrant for searching the house of Moises Padilla for hidden firearms. The sergeant presented it to the judge for signature, but apparently because of the irregularity of the procedure, Judge Occeño refused to sign the warrant.

Early in the morning of election day, November 13, 1951, the sergeant (Pidlawan) returned to the house of Judge Gaudencio Occeño with the same search warrant, but the Judge again refused to sign for the reason that it was election day. It was only late in the morning of November 15 that the warrant of arrest was signed and issued, but Padilla had been arrested since 2 a.m. of that day.

No ROTC nor marines were stationed in Magallon on election day; while the PC (Constabulary) men, under provincial commander Capt. Enriquez, were scattered along the 29 towns of Negros Occidental aside from the capital city of Bacolod, so that only one soldier was detailed in each of the towns of La Castellana, Magallon, and Isabela for the purpose of collecting the keys to the ballot boxes (p. 235, t.s.n.).

On that same election day, Jedidea Roca went to the house of appellant Montilla, where he saw appellant Jose Valencia with some provincial guards taking merienda. On the balcony of Montilla's house was installed a two-way voice radio (Exhibit D) used for communicating with the governor. Around 1 p.m. in the afternoon Roca heard a voice over the loud speakers, blaring: "Calling Isabela, calling Isabela". Immediately, radio operator Alfonso Torilio, who was then detailed in Montilla's house, answered, "This is Isabela, go ahead," and the voice on the other end replied: "This is the governor with a message for Jose Valencia". Valencia then took hold of the radio and upon identifying himself, was heard to be instructed by appellant Lacson from the other end of the line to submit election reports. Valencia first reported that about two-thirds of the voters had already gone to the polls, then asked Lacson if Moises Padilla should be allowed to go to Manila after the elections, whereupon he was told not to allow Padilla to get out of Magallon, nor to release him but instead arrest him, manhandle him, and detain him. Upon hearing the foregoing instructions, Montilla said in an attitude of helplessness, "I cannot help it. I cannot do anything else."

Early in the morning hours of November 14, 1951, prosecution witness Narciso Dalumpines, one of Padilla's ardent sympathizers and supporters, was in barrio Talongon of Magallon to warn his father not to come down to the poblacion because of the tense situation, as the SPs were bent on going after the heads of NPs (Nacionalista). Dalumpines encountered appellant police chief Ceferino Laos with some of his men (appellants Ignacio Altea and Felix Camarines) and special guard Romeo Jabonete. When Dalumpines, in reply to a question by Laos, told the latter that Padilla won in Magallon, Laos grabbed the witness by the hair, gave him a blow on the face, and said that the people in Magallon were rebellious and that all companions and followers of Moises Padilla should be beaten up. Altea, Camarines and Romeo Jabonete joined Laos in beating Dalumpines with the butts of their pistols. Laos further told Dalumpines that "whether Padilla likes it or not he will be defeated because that is the governor's order and that he (Padilla) is a 'Huk', and emphasized again that all the NP's would be beaten up. Laos boasted that even if Padilla should win the election, they would still have three months to persecute and maltreat the NPs and that the latter could do nothing while Lacson was in power as they could do anything they wished.

Laos then ordered Dalumpines placed under arrest and, as the latter resisted, he was threatened with further maltreatment and was held by force. Dalumpines was brought to Magallon by Laos, accompanied by policemen Altea and Camarines, and by Romeo Jabonete, without any warrant of arrest, and there he was detained at the police station, as Magallon had no jail of its own. In the afternoon, Dalumpines was brought by Romeo Jabonete and Alfredo Esmana to mayor Gayona's house, where he saw appellants Joaquin Tolentino, Norberto Jabonete, and Ernesto Camalon, SP heads, together with appellants Laos, Felix Alipalo, and Mariano Pahilanga.

Dalumpines heard Tolentino say to Jabonete, Camarines, Laos and Pahilanga that Padilla, would be arrested that night and if Padilla resisted, he should be killed pursuant to the governor's orders. The above-named appellants then nodded in agreement.

That same night (November 14), appellants Tolentino, Pahilanga, Camalon, Jabonete, Altea, and the other SPs were seen at the Magallon police station, together with Laos, to start the hunt for Padilla, with Tolentino heading the group. Laos and his policemen, numbering six in all, boarded their own pick-up truck, while Norberto Jabonete and Camalon, with twelve other SPs, boarded another.

In the night of November 14, 1951, at about 9 o'clock, Moises Padilla, together with Fernando Macairan, Vicente Ablao, Delfin Cadiz, Cirilo Gayaban, Antonio Alegria and Luis Perez, passed by the house of Fermin Miranda in Hacienda Basilio, where they took supper. Miranda counselled Padilla to flee as he was badly wanted by the SPs, and if caught, his buttocks would be skinned and vinegar poured on them; but Padilla merely answered, "Why go to the mountains, this is a democracy". Padilla later proposed to go to Isabela and seek Dr. Alfredo Hermano's help, as the latter was the one who attempted to negotiate his withdrawal from the mayoralty

race. The group, informed of Dalumpines' arrest, took cross-country roads to Isabela in order to avoid encountering Lacson's SPs and the policemen headed by Laos. Padilla's group arrived at Dr. Hermano's residence, where the latter received them, late in the night of November 14. Padilla requested Dr. Hermano to intercede for him with the governor and proposed to borrow Mayor Montilla's car, but the Doctor advised against such a move saying, "It is too late and it will only place Mayor Montilla in a very compromising situation"; whereupon, Padilla turned to Atty. Vito Miranda, who had arrived in the meantime, and sought his help, but the latter also said it was too late and that he could not do anything.

At about 2 o'clock a.m. of November 15, as Padilla and his followers were in exhausted sleep, the special police arrived, led by appellants Norberto Jabonete and Ernesto Camalon. They surrounded the house and began pounding on the doors. Upon being admitted, SPs Norberto Jabonete, Camalon and Alipalo pointed their guns at Moises Padilla and his followers who had gathered at the "sala" of the house. Norberto Jabonete carried a Thompson sub-machine gun, while Camalon and Alipalo were armed with pistols and all the other guards were carrying Garand rifles. Padilla asked them to put their guns down and demanded for a warrant of arrest, to which Norberto Jabonete merely pointed to his Thompson and said, "Here is the warrant of arrest. What more do you need?" SP Camalon went to Dr. Hermano's phone and reported to the other end of the line that they had already arrested Padilla and his companions. Right then the SPs began mauling Padilla's companions, Dingcong, Macairan and Ablao, hitting them with the butts of their guns. The SPs then marched the captives on foot from Dr. Hermano's house to the nearby municipal building some two blocks away, where they were lodged in jail, while Padilla himself was ordered by Camalon, Jabonete and Alipalo and the other SPs to board a pick-up truck and was taken away, to be returned after some time showing signs of manhandling and too weak to walk. After a brief stay of about 15 minutes in the Isabela jail, where they were maltreated by the SPs, Padilla and his group were transferred to Magallon. There, Moises Padilla, Ablao, Macairan, Dingcong, Salvan and Ray Enrico Padilla were detained at the police station, guarded by appellants Anatolio Vasquez, Ignacio Altea, Juanito Labaosas, Juanito Fernando, Joaquin Balota, Rafael Morada, Felix Camarines, and others. Padilla also saw Dalumpines and Dionisio Gonzales, Jr., who had been arrested earlier, in the police station. Upon arrival at the Magallon police station, Padilla was brought in by appellants Ceferino Laos, Norberto Jabonete, Ernesto Camalon, Joaquin Tolentino and other SPs. Inside the station, Ray Enrico Padilla was manhandled by appellant Laos, while Dingcong was mauled by appellant Morada, and Ablao was boxed and struck with the revolver butt by appellant Altea. Padilla, who could not stand the maltreatment of his companions, pleaded for them and interceded specially for Ray, saying that the latter had no fault at all. Appellant Laos then asked him who, then, was at fault, and said "Afterwards, I will shoot you," referring to Padilla.

At about 5 o'clock a.m. of the same day, November 15, Padilla was ordered to board a pick-up truck by appellants Tolentino, Camalon, Norberto Jabonete and Laos, who accompanied him, followed by other SPs using two pick-ups and a civilian truck painted "De Luxe". Padilla was brought by his tormentors to the site of a former army cadre known as "barracks" at the outskirts of Magallon toward the mountains. There, Padilla was asked by Tolentino the hiding place of his (Padilla's) alleged Thompson submachine gun, but Padilla at first did not answer. Tolentino reiterated the question and as Padilla replied "I have no Thompson," his captors hit him with the butts of their rifles and revolvers, after which they questioned him again. In view of Padilla's obstinate refusal to answer his inquisitors, the latter subjected him to further manhandling for about half an hour by hitting him with pistols, revolvers and rifles, as a consequence of which he fell, almost unconscious. Tolentino then brutally kicked him to make him stand up, but he could not. Later the SPs brought Padilla to a nearby "camansi" tree and there questioned him again about the firearms, but Padilla did not answer. Someone in the group remarked that as they would be overtaken by daylight, they had better take Padilla to Isabela. As Padilla was walking with his captors, one of them gave him a butt stroke, causing him to fall. Two of Padilla's torturers thereupon carried him, holding

his shoulders, and roughly shoved him into one of the pickups. On this occasion, Padilla had a wound near his eye and his face was swollen, while his shirt was smeared with blood, his trousers muddy, and his hair disheveled. After the second beating, Padilla was brought by the appellants and their SPs to the town of Isabela .

In that same morning of November 15, Padilla's mother, Mrs. Maria Sotto Vda. de Gonzales, who had been informed by her son of his plan to go to the house of Dr. Hermano in Isabela, went to that municipality to look for him. There, she went to the mayor's house where she saw her son Moises Padilla at the balcony, surrounded by many armed SPs and being investigated by one of them. Mrs. Gonzales overheard Joaquin Tolentino bragging to those present that they would liquidate all NPs. She also saw Jabonete, Tolentino, Ernesto Camalon, Leon Garibay, Judge Occeño, Mayor Montilla and his wife and other SPs. She noticed that one of Padilla's eyes was bleeding, that his cheeks and chin had contusions, while his trousers were rolled up. Seeing the condition of her son, Mrs. Gonzales sought mayor Montilla's help; but the mayor simply said: "I cannot do anything in behalf of your son." Among Padilla's guards then were appellants Alipalo, Morada and Balota.

From Montilla's house, Padilla was brought by the SPs, led by Tolentino and by Ceferino Laos, to the poblacion of Isabela, together with some 25 or 30 fully armed SPs on board pick-up trucks that stopped at the El Nido bar. Padilla, who could hardly walk and was then barefoot, was ordered to alight from the pick-up by his captors and taken inside. The people who were then at the bar observed that Padilla's hair was disheveled, and he had a bruise on his forehead and was noticeably limping as he walked. After renting their prisoner on a stool, appellant Laos ordered drinks for the account of Paco Esteban, who won as councilor of Isabela. Esteban arrived later and asked permission from the group of Laos to serve some drinks to Padilla. To this request someone derisively answered: "Paim-na and linti na ina. Tatal katapusan lang nya ini nga inom". (You can give him anything you want because that will be his last drink). The bar owner, Miranda, served Padilla a bottle of coca-cola. Then, Attorney Vito Miranda arrived, and at the instance of Paco Esteban who fetched him, offered to help arrange the bail for Padilla, but Laos said that Padilla could not be bailed out as he was accused of sedition.

The arrest of Moises Padilla was effected before the issuance of any warrant of arrest, as the corresponding complaint for alleged sedition, sworn to by Anatolio Vasquez, Jesus Agreda and Ignacio Altea, was filed in the court of Magallon only late in the morning of November 15, and the corresponding warrant was issued at 10:30 a.m. of that day. The warrant was never returned to court. Neither was Padilla ever delivered to the court after big arrest.

Early that morning of November 15, Fidel Henares, a Nacionalista chieftain in Negros Occidental, reported in Bacolod to Col. Mascardo, commander of the Negros Task Force (NEGTAFF), the arrest of Moises Padilla. Mascardo whereupon ordered Captain Marcial B. Enriquez, then Provincial Commander, to verify the report. Pursuant to instructions, Enriquez went to the Talisay home of appellant Governor Lacson, arriving there at 11:30 a.m. In the house he saw a conference taking place at the aisle leading from the sala to the dining room. Present were Mayor Montilla of Isabela, Dr. Alfredo Hermano, Mayors Gayona of Magallon, Paderes Verde of Binalbagan, Tabino of Himamaylan, Ramos of La Castellana, Ykalina of Valladolid, Jose Valencia, Governor Lacson himself, his son Alfonso, and others. Enriquez asked Montilla about the truth of Padilla's arrest, considering that, according to the report, he was arrested in Isabela and this fact was confirmed by Dr. Hermano himself, who said to Capt. Enriquez that Padilla was arrested in his house as the latter went there and he (Dr. Hermano) was surprised that Padilla and his followers were bare-footed. Upon seeing Enriquez, Lacson greeted him and told him that Padilla, with some of his followers, escaped at dawn of November 14 toward the mountains with arms, and being dissidents, they had been accused of sedition. Enriquez testified that being desirous of getting more details about Padilla's arrest, he elected to stay and heard the Governor unfold his plans concerning Moises Padilla. According to the governor, Padilla was a dissident and, therefore, in order to serve as an example,

Padilla should be taken and paraded around Magallon and manhandled in the course thereof; then taken to Isabela, repeating the same procedure of manhandling but doing so in the interior of the town; then taken back to La Castellana and shot to death in a feigned attempt at escaping while enroute to Bacolod provincial jail. Lacson instructed appellants mayor Montilla, Gayona and Ramos to alert their respective police forces against possible retaliation by Padilla's alleged followers. He told them to place their respective police forces under Lacson's special agents, appellant Joaquin Tolentino, Ernesto Camalon, and Norberto Jabonete, who would take charge of the arrest and manhandling of Padilla and his followers.

The Governor then turned to Capt. Enriquez and told him not to mind Padilla because "anyway he is a dissident". Lacson further asked the captain not to detail soldiers in Magallon, La Castellana, or Isabela, because his (Lacson's) men would take care of those towns. After the conference was over, Lacson called Valencia aside and whispered some instructions to him after which, Valencia requested Capt. Enriquez to ride with him to Bacolod. While in the car, Valencia confirmed to Enriquez the plan to have Padilla manhandled and liquidated, and said that one of the reasons for so doing was because Padilla had a hand in the killing of a relative of appellant Mayor Ramos (of La Castellana).

In fact, Padilla was returned to the Magallon police station from Isabela at noon of the same date, November 15, with wounds and contusions in his back, bridge of the nose, right cheek and stomach. He was guarded by appellants Tolentino, Laos, Vasquez, Labasas, Pahilanga and Fernando with other Magallon policemen not accused herein (Arnaiz, Villarosa and Esmana). All along, Padilla was manacled. His mother Mrs. Gonzales, accompanied by his youngest sister Priscilla, went to visit him. Padilla whispered to his mother to go to Manila and communicate with Magsaysay. After leaving Priscilla to take care of her tortured brother, Mrs. Gonzales left for Manila to see Secretary Ramon Magsaysay of National Defense.

At 4:00 p.m. of the same day, Esperanza Ablao went to the police station of Magallon and asked permission from Laos to continue her injections of anti-rabies serum to Padilla who had been bitten by a dog several days previously, and there Esperanza saw Padilla's wounds, contusions, and bruises. Tolentino told Laos that Padilla and company would be taken to the Bacolod provincial jail that afternoon, but Laos refused, saying that after all they are just stooges or "Ido-ido" (running dogs) of the Governor. Laos even said "If you will force me to give Moises Padilla, even if you unload on me all the ammunitions that you have with your BARS (Browning automatic rifles), I won't give Moises Padilla to you". And so Padilla remained that day in the Magallon police station. But early in the morning of November 16, Padilla and companions were ordered brought to Bacolod. At 6 a.m. of November 16, Esperanza Ablao returned to the police station to continue the anti-rabies shots being administered to Padilla. Laos shouted at Esperanza to hurry up the injection and as the serum was being administered to Padilla, the latter turned to Esperanza and asked her to contact and inform then Secretary Magsaysay of the happenings there; he was not able to say anything further as Laos ordered that the injections be immediately finished.

Instead of going to Bacolod, however, the group of Padilla, Salvan Dalumpines, Dingcong, Ablao Macairan, Ray Enrico Padilla, Cadiz and Dionisio Gonzales, Jr. were brought to the jail at La Castellana by Laos, Tolentino, Camalon, Alipalo and Norberto Jabonete, arriving at 7:30 in the morning. Once inside the La Castellana jail, their captors placed Padilla in a separate cell and locked the rest of the prisoner's in another.

That same morning, of November 16, 1951, Padilla was taken out by Tolentino, Camalon, Alipalo and Norberto Jabonete, and brought to an isolated place outside the poblacion of La Castellana. There, Padilla was beaten by the band of special policemen or guards with revolvers, while his hands were handcuffed behind his back. As he fell, his tormentors pulled him up by the hair and forcibly stood him up while the torture went on.

At about noon, Cresenciano Nasalga, a student of the La Castellana Elementary School, while on the way to his home at Hacienda Nahilao, some 3 1/2 kms. from the poblacion, saw the group of SPs maltreating Moises Padilla. The SPs made Padilla sit on a nearby stone, while appellant Salgo ordered Nasalga to help him bring a kettleful of rice to the SPs and to serve a plateful to Padilla. The boy spoon-fed Padilla because the latter's hands were handcuffed. While thus being fed, Padilla whispered to Cresenciano to report to the authorities what he saw. The SPs questioned the boy as to what Padilla had whispered, and the boy answered that Padilla merely said that he could hardly eat. Thereupon the SPs threatened the boy with death should he tell anyone the incident he had witnessed. Among the SPs present were Felix Alipalo and Norberto Jabonete.

At Bacolod, on that same morning of November 16, 1951, Fidel Henares again reported to Col. Mascardo that Padilla was being manhandled and asked protection for the latter. Mascardo again ordered Captain Enriquez to verify the report. Enriquez detailed Sgt. Gonzales and Cpl. Jacob to proceed to Magallon. At two in the afternoon of that day, Enriquez decided to go to Magallon himself. There he was met at the town crossing by Jacob, who reported that Padilla and his companions were charged with sedition. Somewhere between kilometers 3 and 4 from the Magallon junction, Enriquez and his men saw two pick-up trucks and one civilian bus filled with armed men, among whom he easily recognized appellants Camalon, Jabonete and Tolentino. The latter volunteered to Enriquez that Padilla was brought to the La Castellana jail because there was no safe jail in Magallon. Enriquez, however, noticed that the armed men in the three vehicles were in a stooping position, as if trying to cover or hide something. As Enriquez proceeded to examine the three vehicles, Camalon, Tolentino and Jabonete blocked his way, and Camalon brusquely told the officer that the vehicles were their own business. Because of the menacing attitude of these SPs, about 20 of them, fully armed with Garand rifles, Thompson submachine guns, carbines, and pistols of various calibers, and considering that he had only two soldiers with him, Enriquez did not insist. Instead, he merely contented himself by asking Tolentino to see to it that Padilla be not manhandled. Enriquez then proceeded to the Magallon police station, arriving there at 4:00 p.m., and was told that Laos and his policemen were patrolling the mountains of Magallon looking for Padilla and his followers who escaped from the town. In the afternoon of same date, at about 5 p.m., Enriquez met Lt. Bernabe of the JAGO, who was also looking for Padilla and his companions.

On their way home, Enriquez and Bernabe saw three vehicles parked in front of the Isabela municipal building with many armed men scattered around. The two officers were met by Tolentino, followed by Camalon, with the handcuffed Padilla in tow. They observed that Padilla's wrist was swollen, his face battered, swollen and bleeding, and he was limping very badly. Enriquez wanted to rescue Padilla then and there, and asked the 3 SPs, Camalon, Tolentino and Jabonete to deliver the prisoner to him, but the trio simply ignored him. Enriquez again lost heart as they were only four officers with sidearms as against more than 20 heavily armed SPs. They helplessly watched as a La Castellana policeman whisked Padilla away by the back door of the municipal building.

Regina Padilla, an aunt of Moises, who was then residing in barrio Igbalatong, La Castellana, left for the municipal building of La Castellana, arriving there in the evening of November 16. Regina met a man in khaki uniform from whom she sought permission to see Moises Padilla, but she was angrily refused. While walking in the street, a passerby informed her that Moises Padilla was brought to the town cemetery; whereupon Regina proceeded to the cemetery at the outskirts of the town. Upon seeing a pickup parked nearby, Regina immediately hid behind a ditch by a bamboo grove overlooking the cemetery. While thus in hiding, she saw a group of persons gathered around the grave of Pascual Ramos, Sr., deceased father of appellant Manuel Ramos, then Mayor of La Castellana. There, by the grave of Pascual, stood someone who was weeping and shouting: "Papa rise up. Here is now the man who killed your son," after which the speaker, who turned out to be the appellant Manuel Ramos, grabbed the hair of manacled Moises Padilla and further shouted: "Here is now the man wanted by the governor. I will be the one to kill this man." After saying thus, Manuel Ramos repeatedly bumped the head of Moises Padilla

on the marble slab of the tomb and struck the helpless victim with the butt of a gun. Padilla was groaning as he received the blows, and finally fell; but the group of men, together with appellant Manuel Ramos, mercilessly continued pounding and beating him. Later, Ramos ordered that Padilla be taken to his house.

Near appellant Ramos' residence, he ordered that Padilla be dropped from the vehicle to the ground. As Padilla lay motionless on the ground, Ramos brutally hit him, while the others followed suit by striking Padilla with butts of their guns. Ramos then ordered his henchmen to make Padilla stand up and bring him inside his house. Then Mayor Ramos was heard telling the SPs to kill Padilla themselves, as it was the order of the Governor. Later, Moises Padilla was heard to say in a weak and halting voice: "Inasmuch as you have done what you wanted, finish me if you care to." These words were followed by more beatings and groans, and finally by shots.

At dawn of November 17, 1951, a canvas-covered pickup stopped at Rizal street in Magallon, while a "De Luxe Talisay" pick-up parked by San Diego street, very near the municipal building. The trucks carried special policemen. Appellant Raymundo Adle alighted from one of the pick-ups and proceeded to the police station, then came out accompanied by appellant Anatolio Vasquez. The two then proceeded to the canvas-covered pick-up and called two civilians who were loitering nearby. The two civilians entered the police stations and came out with benches which they brought near the covered pick-up. A man-shaped object wrapped in a mat was taken from the covered pick-up and brought to the police station, followed by appellants Norberto Jabonete, Ernesto Camalon, Joaquin Tolentino, Felix Alipalo and other SPs. The SPs placed a cordon around the police station. So closely guarded was the station that not even dogs could approach the wrapped object. By 10:30 of that morning, Padilla's cadaver was taken out of the municipal building with Norberto Jabonete nonchalantly standing by and watching. He ordered some civilians around to take the cadaver of Moises to the latter's mother. Alejandrita Salvador followed Padilla's corpse as it was being brought to his mother's house, while appellants Norberto Jabonete, Ernesto Camalon, Joaquin Tolentino and Felix Alipalo stayed in the police station.

At past 11 o'clock of that evening, the then Secretary of National Defense Ramon Magsaysay arrived at the house of Padilla's mother, accompanied by Cola. Luis Franco and Antonio Sayson and other army officers and marines. Magsaysay ordered that the cadaver of Padilla be unwrapped, and after viewing the remains said to all those gathered in the house; "Don't be afraid of the SPs; for as long as you need the Armed Forces of the Philippines, I will let the AFP stay in Negros Occidental and if you are afraid to go to the marines, you just telegraph me, Collect Secretary Ramon Magsaysay, Camp Murphy, Quezon City."

Padilla's corpse was taken to Manila where it was subjected to a careful medico-legal examination by Dr. Enrique V. de Santos of the NBI. A total of 15 gunshot wounds were found on the corpse, eleven (11) of which entered at the back, and four other wounds were on other parts of the body. Ten (10) of the wounds were fatal as they pierced the lungs, heart and aorta. Some were inflicted while the victim was with his back to the gunman. Numerous abrasions were likewise found in the body (Exhibit H). Four of the shots that pierced the back left powder traces on Padilla's jacket, showing that they were fired at a distance of less than one meter. Death was due to shock, severe, secondary to multiple perforating gunshot wounds (Exhibits I and K).

For the defense, only accused-appellants Lacson, Gayona (Mayor of Magallon) and Ramos (Mayor of La Castellana) and one Mariano Pahilanga took the stand, though evidence was introduced for all of them. Contradicting the testimony of Captain Marcial Enriquez, appellant Lacson denied that he plotted the parading, torturing and killing of Moises Padilla with the Liberal mayors, especially Ramos, Gayona and Montilla; denied using the expressions against Padilla attributed to him at the Magallon meeting or giving instruction to mayor Ramos at the house of mayor Montilla, for Padilla's arrest, as testified to by witnesses Borromeo, Roco, Alcedo and Faustenorio. Lacson further averred that he learned of Padilla's death only in the morning of November 18, 1951, and thereupon instructed Enriquez to investigate; and asserted that witnesses Roca, Borromeo, Chaves,

Gayotin and Dalumpines testified against him because of minor grievances.

Accused-appellant Manuel Ramos denied having attacked Moises Padilla at the Magallon meeting, or having harbored hatred against the deceased or suspected him of the death of his brother Pascual Ramos; denied the testimony of Roca and Alcedo on his being instructed to arrest Padilla, and of Faustenorio that he told the guards to kill Padilla as it was the order of the Governor (Lacson).

Jose Gayona, Jr. admitted having been Padilla's opponent at the elections of 1951 but said that both were compadres and had no quarrel, and in fact Padilla supped with him on the night of the election; admitted the presence of armed guards at the Magallon meeting; that, according to his investigation, Camalon and his group of special agents arrested Padilla, although Laos was not present thereat; that he was told that Padilla was shot by Hjar in the night of November 17, 1951; that prosecution witness Ablao told him that her brother Vicente was arrested with Padilla, and he did not investigate the case as she requested; but denied that he told Ablao that he could do nothing for her brother because of Governor Lacson's orders.

Mariano Pahilanga admitted being one of the governor's supervising special agents, assigned to observe the elections of Magallon and gather the election returns; stated that he had a friendly conversation with Padilla, whom he had known from guerrilla days; admitted that peace and order agents, special agents and provincial guards were entirely dependent on orders and instructions from the office of the governor; that they could not do anything, or go anywhere, without the governor's specific orders or interfere in any ease unless directed by the governor; that everything the SPs do must be known to the governor. The witness further admitted that before leaving Magallon on November 15, he heard about the arrest of Padilla, whom he knew to be a peaceful man; and expressed doubts about his having committed sedition.

To corroborate Lacson's denial of his plotting against Padilla at the Liberal's victory meeting in the house of the governor in Talisay, the defense produced Neri de la Peña and Mayors Gustilo of Manapla and Soliguer of Pontevedra, who also contradicted the version of Captain Enriquez. Mrs. Felisa Montilla and Elpidio Fernandez likewise denied that Lacson gave instructions for the arrest and liquidation of Padilla at Montilla's house, contradicting prosecution witnesses Roca and Borromeo.

The defense further presented witnesses to deny the prosecution's version of the speeches at the Magallon meeting and to deny the presence of Alcedo and Faustenorio at the house of Mayor Ramos in La Castellana (where according to said witnesses they heard appellant Lacson giving instructions for the arrest of Moises Padilla), as well as to deny that Padilla was tortured in the house of Mayor Ramos, as Faustenorio asserted.

On behalf of the Magallon policemen and their chief, Ceferino Laos, the defense presented witnesses to affirm that on November 16, 1951, Laos and accused policemen Fernando, Morada, Barrieta, Esmana, Camarines and Agreda were seen on the way to patrol in the mountains, looking for a band of armed men; that on the election day, Padilla's half-brother (D. Gonzales, Jr.) had been arrested for carrying a knife within the limits of Precinct No. 12 of Magallon. Policeman Esmana further testified that on November 12, Moises Padilla, carrying a Thompson submachine gun, had confronted Chief of Police Laos at the police station and threatened to shoot the policeman if they bothered the voters on election day; to which Laos had replied meekly that it would be regrettable if Padilla shot them when they had not done anything; that, contrary to the assertions of prosecution witness Dalumpines, the latter had not been maltreated by Laos and his men, nor other Nacionalistas threatened; that after his arrest, Padilla admitted having bidden a submachine gun somewhere in Isabela for which reason Laos and his policemen went there to look for it, and later, on November 16, Padilla was escorted to the La Castellana jail because that of Magallon was unsuitable; but on the way, Padilla was taken by Camalon and his companions to Isabela to look for the submachine gun.

For the other appellants, witnesses were also presented to vouch for the exemplary character of appellants Camalon and Valencia and to establish an alibi for appellant Jabonete, as well as to show that witnesses for the prosecution Alcedo and Nasalga (who saw the torturing of Padilla) were being supported during the trial by Nacionalista Senator Pedro Hernaez.

Our own review and consideration of this mass of contradictory evidence has led us, like the court below, to the conclusion that the version of the witnesses for the prosecution is the more veracious, direct and credible. While the appellants have pointed out minor contradictions in their testimony, such flaws are to be expected of inexperienced persons subjected to the ordeal of prolonged and multiple cross-examinations and do not militate against credibility.

Not only is it difficult to believe that the witnesses for the presecution would deliberately swear away the life of these appellants, but most of their narrative is substantially confirmed by the physical and psychological indicia put in evidence.

The record is clear that the arrest, torture, and eventual death of Moises Padilla were the result of a deliberate plan, fie was arrested in the early hours (2 a.m.) of November 15, in the house of Dr. Hermano in Isabel, by a group of special agents of Governor Lacson, led by appellants Tolentino, Camalon, Alipalo and Jabonete. The arrest was made hours before the charges (of sedition and illegal possession of firearms) were admitted by Justice of the Peace Occeño and before the supporting witnesses were examined and the warrant of arrest issued. In fact, the search for Padilla had started days before, despite the fact that the Justice of the Peace had previously rejected the charges twice; thus clearly showing that the alleged sedition was a mere pretext to take Padilla into custody. The absence of any return to the warrant of arrest further emphasizes the inference; for Padilla was tortured and killed without being presented to any judicial officer, not even the judge who ordered his arrest.

Contusions and lesions found on Padilla's body in the course of the autopsy (Exhibit "G", "J") are mute but convincing¹ evidence of his having been subjected to brutal torture as asserted in Court by the prosecution witnesses. The wounds that were mortal appear inflicted by a variety of firearms, as proved by the diverse diameter of the perforations. The bullets entered at the victim's back, and were fired at different distances: chemical analysis revealed powder traces around some of the perforations of the jacket last worn by the deceased, leading to the peremptory conclusion that Padilla succumbed to a treacherous attack.

Eyewitness to the manner how Padilla met his end is the appellant Vicente Hajar, who averred under oath in his affidavit (Exhibit H) that he was the lone guard who shot Padilla to death. In said affidavit, which is the main-stay of the defense, Hajar averred that in the night of November 16, he, Adriano Valencia, Graciano Peras and Rodolfo Ramos, all policemen of La Castellana, duly armed with submachine guns had taken Padilla on board a pick-up truck driven by Florentino Salgo, upon orders to escort the arrested man to Bacolod; that at about midnight, in barrio Tabao, Valladolid, Padilla suddenly jumped out of the vehicle; and as his hands were handcuffed together at his back, the prisoner landed face up on the road; that Hajar, after firing a warning shot in the air, ordered the vehicle stopped, jumped out in turn and, as Padilla tried to rise, Hajar fired a burst from his .45 caliber submachine gun, discharged at a distance of 20 meters; and not content with thus hitting the defenseless man, Hajar further shot him with a .38 caliber revolver.

The artificiality of this explanation is self-evident. It is highly improbable that Padilla, who had been repeatedly tortured and battered by his captors for two consecutive days, should still retain strength to jump out of the running vehicle without any one of his alleged four guards being able to prevent such act; nor is any reason seen why Hajar, seeing him further weakened by his fall and lying handcuffed face up on the road, should find it necessary to shoot the deceased, or use two different weapons in so doing, without even calling upon his other

companions to overpower the prisoner. They could have easily done so in view of his weakened condition. Finally, how the bullets, allegedly fired at Padilla as he lay face up on the road, entered his body from the back can not be and is not explained. Plainly, Hajar's affidavit is but a fabrication to explain away the numerous mortal wounds inflicted by weapons of different calibers that were found in the body of Padilla, and to have Hajar shoulder the entire blame enabling his co-accused to go scot-free.

Discarding as we must, Hajar's untruthful version of the killing, there is no direct evidence or record to prove how Padilla was actually done sway with. However, since it is clearly proved of record that Padilla was hunted, arrested, manhandled, and tortured in various localities in, Magallon, Isabela and La Castellana by guards and policemen, particularly appellants Jabonete, Camalon, Tolentino, Alipalo, and Laos; that he was finally taken away by them, on November 16, from the jail of La Castellana; that Moises Padilla was not seen alive thereafter, but, on the contrary, his corpse was on the next day brought back to Magallon by the same group of guards, it is legitimately inferable, there being no credible evidence to the contrary that the members of this group were the ones criminally responsible for his being shot to death, since the wounds on the back, as already noted, attest to their deliberate infliction. And since these appellants, specially Laos, Jabonete, Camalon, Tolentino and Alipalo, acted in concert, throughout, obviously cooperating with each other according to a predetermined course of action, from the arrest of Padilla up to the return of his cadaver, they must all be deemed as co-principals in the crime. Since their acts of mutual co-operation betray a conspiracy, it is not necessary to pinpoint who of them fired the fatal shots (People vs. Siaotong, G.R. No. L-9242, 29 March, 1957; People vs. Upao Moro, G.R. No. L-6771, 28 May 1957). It is well to note here that Laos, although a municipal chief of police and not a guard or agent of the governor, actually cooperated with the others heretofore named, not only in Magallon but also in Isabela and La Castellana, even if the last two towns were outside of his jurisdiction; and moreover, he signed the charges of sedition, falsely stating that a submachine gun had been found in Padilla's possession, in order to give Padilla's detention a semblance of legality.

The five appellants mentioned were positively identified: at Padilla's arrest, by the companions of the deceased, and by prosecution witnesses Santiago Salvan and Fernando Macairan, who witnessed them also take Padilla in a pickup truck to Magallon; at Magallon, while maltreating Padilla, by Pascual Paulmitan, in the morning of November 15. At Hacienda Aurora, barrio Mambajao in Isabela, Padilla's manhandling was witnessed by Crisanto Pulmones; in the poblacion of Isabela, Alfredo Esmana and Captain Enriquez recognized these appellants with the battered and exhausted Padilla in tow. Esperanza Abao saw Camalon, Tolentino, Alipalo, Laos and Jabonete leave Magallon jail with Padilla. They were once more seen and identified in La Castellana, hitting their victim with the butts of their guns, by the boy Cresenciano Nasalga, whom they ordered to feed Padilla; they were seen and recognized by Regina Padilla at the cemetery of La Castellana, late in the afternoon (when Mayor Ramos took a hand in the torture) and again that evening when Padilla was taken to the Mayor's house; by Justina Faustenorio, when mayor Ramos reminded, Jabonete, Hajar and the others that Governor Lacson had ordered Padilla slain and instructed them to comply; and finally by Alejandrita Salvador, when these appellants returned to Magallon the next morning with the cadaver of Padilla wrapped in a piece of canvas. Against these positive identifications, their denials, alibis and character witnesses are of no avail (People vs. Divinagracia, 105 Phil., 281; and cases cited; People vs. Camerino, 105 Phil., 541; 56 Off. Gaz., [25] 4226; People vs. Labisig, G.R. No. L-8798, 30 July 1959; People vs. Villaroya, 101 Phil., 1061; 54 Off. Gaz., [11] 3482; People vs. Abrina, 101 Phil., 695; 54 Off. Gaz., [17] 4958).

To the five should be added the self confessed killer, Hajar, as well as the mayor of La Castellana, Manuel Ramos, who not only took part in torturing Padilla (whom he believed responsible for the death of his own brother) at the town cemetery and later at his own house, but had publicly inveighed against the victim at political meetings previous to the election, assured Governor Lacson that "his orders would be carried out", and reminded the guards

that the Governor had decreed Padilla's death, a plan to which Ramos evidently adhered.

The argument that Hajar's statement (Exhibit H) must be accepted or rejected in toto; that if his story how Padilla was killed is discarded, his admission that he shot and killed Padilla should not be taken against him either, ignores the basic foundation, of the rule on admissions against interest. Acceptance of Hajar's owning of his part in shooting Padilla is based on the time-tested rule backed by human experience, that one does not normally avow committing an unlawful act unless it is true, but on the other hand, the same person's attempt to justify his actions, not being against his own interest but self-serving, are not necessarily truthful unless satisfactorily corroborated. And in Hajar's case, his justification is contradicted by the physical facts.

As to Manuel Ramos, his defense consists in denials, testimony (of Mamerto Alvarez and Bienvenido Agbayani) that nothing unusual (like the torture of Moises Padilla) was seen in his house, and that witnesses Rufina de Alcedo and Justina Faustenorio (prosecution witnesses) were never present or invited to his home where the conference with Lacson was held. This negative evidence (that in the case of the prosecution witnesses amounts to nothing but an alibi in reverse) can not overcome the state's positive proof (U.S. vs. Bueno, 41 Phil., 452) specially in view of the absence of adequate motive for the witnesses to testify falsely against him. The arguments based on the topography of the La Castellana cemetery in 1954 are clearly incompetent to undermine the testimony of Regina Padilla on Ramos' participation in the torture of Padilla in the same place in 1951, two years previous to the ocular inspection.

With respect to appellant Rafael Lacson, a just assessment of the role he played in this bloody event imperatively demands that the local peace and order conditions at the time should be taken into account. There is no serious controversy that upon his election to the governorship, Lacson had proceeded to organize (plainly with the tolerance, if not benevolence, of the central administration) a tightly-knit private army of around one thousand resolute men, equipped with high-powered rifles, submachine guns and large caliber side arms, and with motor vehicles at their call to assure mobility and ease of displacement. This force of "peace and order" agents and provincial guards, commonly known as special police (SP for short) were divided into groups led by so-called "Supervising agents" designated as lieutenants, and among them were appellants Valencia, Camalon, Jabonete and Tolentino. The provincial constabulary commander; Captain Enriquez, as well as witnesses Gayotin, Chavez and Roca for the prosecution, and Pahilanga for the defense, testified concordantly that these agents, special police and provincial guards were wider the absolute and exclusive command of the Governor; that they had no specific duties but to carry out said official's orders, and were only responsible to him. Thus, Gayotin testified:

"We the special agents, supervising agents, special police and provincial guards are under the direct orders of Governor Lacson and under his absolute command." (T.S.N. 3523)

"(Court)—You mean to say that you have no specific duties as such special agent except what the Governor orders you to do?

A—Yes, sir." (t.s.n. 3524)

"Do you mean to say that each special agent is responsible only to the Governor?

A—To Governor Lacson". (t.s.n. 3527)

"In our official record we say 'pacification campaign, but the real fact there was that we were detecting who were against him." (t.s.n. 3528) "This organization is only under the direct control of Governor Lacson and whatever he says we follow." (t.s.n. 3524)

And Pahilanga:

"(Court)—Do you mean to say you entirely depended on instructions and orders from the office of the Governor?

A—Yes, sir.

Q—And unless the office of the Governor instructed you to do something you cannot go outside of the capital of the province and interfere in any case?

A—Yes, sir." (t.s.n. 4967)

"Q—With respect to you, peace and order supervisors, were there any rules and regulations governing the discharge of your duties?

* * * * *

A—There was none.

Q—You entirely were under whose order?

A—Under the Governor, sir.

Q—You had no discretion at all when it comes to the fulfillment of your duties?

A—No, sir.

Q—You cannot even go out of the town unless it is with the knowledge and direction of the Governor?

A—Yes, sir.

Q—Therefore, whatever any of you supervisors will have to do in connection with the discharge of your duties must necessarily be known by the Governor?

A—Yes, sir." (t.s.n. 4980-981)

* * * * *

"Q—And these also have no special rules and regulations governing their conduct as to the discharge of their duties?

A—No, sir.

Q—They were under the direction and supervision of the Governor?

A—Yes, sir.

Q—And they, like you, supervisors, cannot go out unless directed." (t.s.n. 4981)

Radiotelephonic receiving and transmitting sets installed at the provincial capitol, at the governor's own house in Talisay, at the various municipalities, and in the pick-up trucks used by the SPs as well further assured Lacson's strict control over his agents at all times.

It was unavoidable that this armed force (that could easily brush off the lone company of Constabulary men and the small force of Marines maintained in Occidental Negros by the central government) should eventually be used by the Governor for his own purposes and particularly to consolidate his domination over political affairs of the province, to the detriment of his opponents. Invariably it led to abuses, and to the use of violence against those who dared opposed the orders of the governor. The prosecution witnesses revealed that attorney Inocencio Ferrer was kidnapped by the SP, mauled and thrown into a river; Loreto Tengco, Doromal and Cresencio Grande were assaulted and had to be hospitalized, as was Juan Valois; and other candidates who did not count with the

governor's blessings had to evacuate to avoid injury. Even Captain Junsay and some members of the Nenita unit of the Army, became victims of Lacson's henchmen and were seriously injured during their detention.

Against this background it is easy to see how Padilla, who had defied the wishes of Lacson to withdraw his Nacionalista candidacy to the mayorship of Magallon, should have incurred the Governor's wrath and invited a similar or worse fate. The Governor publicly railed at him, and threatened that he would be arrested and manhandled and killed. Witnesses Jedidea Roca and Melecio Borromeo testified to Lacson's having stated in the house of mayor Montilla (t.s.n. page 1010; 1364—1365) :

"Regarding Magallon, you should have nothing to fear because I have already given instructions to Ceferino Laos, the Chief of Police, to guard all the possible escape of Moises Padilla. I would have him manhandled. I will not just lodge him in jail because there is a possibility that some of the big shots, who are his friends, may bail him out and he may result to be a dangerous fellow. And I will have his buttock skinned and put some vinegar because in that manner he will not last long."

Captain Enriquez testified, in turn, that Lacson, in the flush of his party victory, celebrated in his Talisay home, and having learned of Padilla's arrest, exposed his plan to have Padilla paraded, manhandled, and shot.

Lacson, as was to be expected, denied such statements and strongly contends that such evidence is not entitled to credit. But Lacson's intervention and his direction of the tragic events under inquiry is confirmed beyond reasonable doubt by the fact that Padilla's arrest was made by the SPs led by Tolentino, Camalon, Alipalo and Jabonete; and that these men, with Laos and other police officers of Magallon, tortured and manhandled Padilla, not only in that municipality but also in Isabela and La Castellana; took him away still alive, and returned the next day with his corpse. Since these men had no personal interest in Magallon politics, and since prosecution and defense coincide that the SP men only acted upon orders of the governor and under his control, it is inconceivable that they should have dared to pursue the unlawful conduct just described unless so ordered by appellant Lacson. The latter's failure to take action against, order the prosecution of, or even berate his subordinates for their outlawry merely confirms this view. Lacson, therefore, must stand convicted as co-principal by induction in Moises Padilla's murder.

It is argued that there is no evidence that Lacson desired Padilla's death; that he only ordered Padilla's manhandling; hence, that he can not be convicted of murder but at the most, of physical injuries. We think this stand is untenable. The plan disclosed to his friend and overheard by Captain Enriquez, and the statement of Lacson, testified to by the witnesses for the prosecution, that he would have Padilla arrested, his buttocks skinned, and vinegar poured on them, and not just lodged, in jail because he might be bailed out (*supra*.) plainly reveal an intent and incitement to kill though not expressed in so many words.

But even in the assumption that Lacson only ordered the torture of Padilla, justice and public policy require that one who incites illegal activity should stand responsible for all foreseeable consequences not adequately guarded against. Having ordered that Padilla should be arrested, paraded, and tortured in various places in the province, it was incumbent upon appellant Lacson to foresee that the torturers would be ultimately led to kill and silence their victim, lest he subsequently complain to the authorities and give evidence against his assailants, or because of aroused passion. Having unchained and set loose the baser instincts of his men, Lacson was in law chargeable with the duty to foresee that violence is as intoxicating as liquor, and can not be confined within precise limits, and to take adequate measures against the contingency of his henchmen's losing self-control. No rule is more fundamental in criminal law than the one making the offender answerable for the natural consequences of his illegal actions. The homicide being a natural and foreseeable consequence of the acts illegally incited, the inducer cannot, and should not, escape liability therefor, unless he proves that he has adopted adequate measures against excess. Any other precept would allow every mastermind to escape his just deserts by pleading that his tools

overstepped his instructions. The serf would thus bear the full brunt of the legal punishment to the exclusion of his master. We can not agree that the sword of justice is exclusively reserved for the less intelligent malefactor.

The applicable rule is identical under the Spanish Penal Code and our own, which is derived from the former:

" Para que el inductor sea castigado es preciso que el ejecutor realice lo que fue objeto de la induccion. Esto plantea el problema del *excesus mandati*. Respecto de este interesante asunto es unanime la doctrina en entender que para resolver esta cuestion es preciso distinguir segun que la diferencia entre lo querido por el instigador y lo realizado por el ejecutor material este en el fin o en el medio. Si esta en el fin, por punto general no sera responsable el instigador, a no ser cuando el provocado execute un hecho que era consecuencia previsible de aquello a que se le provocaba. Si la diversidad esta en el medio, el provocador debe responder de lo realizado, dice PESSINA, cuando el medio no ha cambiado la naturaleza del delito que formo la materia de la provocacion. Esta doctrina fue tambien admitida por los practicos fundandola en aquel principio de Derecho romano: "*Fines mandati custodiende sunt, nam qui excesit aliud qui facere videtur.*"

Todos estos principios, por regla general, se pueden aplicar al Derecho español, teniendo siempre en cuenta que con relacion al robo con homicidio el Tribunal Supremo tiene declarado que el inductor es responsable del robo con homicidio, aunque solo indujera al robo (20 de octubre de 1881)." (Puig Peña, Derecho Penal, Tomo II, pp. 261-262) (Italics supplied)

Much is made of the alleged lack of motive on the part of the accused Lacson to have his men maltreat and liquidate Padilla after the latter's electoral defeat. We cannot overlook in this respect that even prior to the elections, Lacson's statements made it clear that he intended to punish Padilla for having dared to ignore his order that Padilla should withdraw from the Magallon mayoralty race. It is evident that the disproportion between Padilla's offense and the punishment he received was due to a desire on the part of the governor and his henchmen to terrorize into submission all those who might feel the same defiant spirit stirring in their souls, lest, by allowing Padilla to go unscathed, the spirit of rebellion should wax into a force that would ultimately engulf the Lacson administration. Despots, shorn of the steadying influence of legitimacy, have always sought to replace it with cruelty and terrorism, in a vain effort to perpetuate their domination.

All the appellants vigorously assail the truthfulness of Captain Marcial Enriquez, then Provincial Commissioner of Negros , on the ground of inherent improbabilities. It is averred that Lacson could not have disclosed in the presence of the Constabulary commander the plan to have Padilla tortured, paraded and eventually shot, that having learned of the plan after he was ordered by Colonel Mascardo to investigate the report that Padilla was arrested and tortured, Enriquez would have lost no time in reporting it to his superior officer with full details; that he would have revealed them to Colonels Franco and Sayson when they were investigating Padilla's murder by order of the then Secretary of Defense Ramon Magsaysay, and his name would have appeared in the very first list of the witnesses for the prosecution. We have read and carefully considered the testimony of this witness in the light of the objections of the defense, and are satisfied that it is truthful. If at all, it would appear that in disclosing to the Court the full story of Lacson's participation, Enriquez still had to struggle against his inclination in favor of the accused, to whom he felt (justifiably or not) indebted for his appointment as provincial commander of Negros Occidental. And these feelings sufficiently explain why Enriquez did not immediately volunteer to the Army investigators what he knew about the crime, especially since he could rightly expect to be called upon to do so. Upon the other hand, the candid admission by Enriquez that he remained inactive in Padilla's case because he was afraid of Governor Lacson's power and explosive temper (a circumstance that could hardly redound to the credit of the witness as a military officer) is indicative of his veracity.

That Lacson should have not dissembled his plan to liquidate Padilla, despite the presence of Enriquez, is not incredible considering that the captain felt beholden to Lacson for his promotion, and was important to block

Lacson's plans with the meager constabulary forces available. It must also be remembered that the disclosure was made by Lacson in the course of a victory celebration, when the satisfaction in the triumph of his henchmen and the realization that his political success enhanced his position in the eyes of the Liberal authorities in Manila, and assured their continued benevolence, all concurred to remove Lacson's inhibitions on the subject. It would not be the first time that a person's emotions stilled the dictates of prudence. Nor is it to be wondered at that the shock of hearing Lacson's callous plans with respect to Padilla should make Enriquez anxious to obtain further verification before reporting to Colonel Mascardo, lest a report of what he heard should cause Mascardo to doubt him. Actually, when the bare fact was later reported, Mascardo did ask Enriquez to verify the account.

That Enriquez was not included in the first list of prosecution witnesses is in itself no ground to doubt his testimony. Whether or not his name would be disclosed did not depend on him. Anyhow, the established rule is that the prosecution may call unlisted witnesses to testify (section 1, Rule 712 in fine; *People vs. Judge Palacio, et al.*, 108 Phil., 220; 58 Off. Gaz., [24] 4498).

Appellants also contend that the message sent by Roca to Padilla, warning him to escape because Valencia was after him (Exhibit C), was apocryphal and manufactured by the prosecution. The charge is rebutted by the defense's closing its evidence without presenting expert evidence to that effect, notwithstanding that, in the course of Roca's testimony, counsel for the accused had loudly proclaimed in open court that it would send experts to prove that the exhibit had been falsified. The excuse that the plan of Attorney Francisco to call expert witnesses was not known to Attorney Nolan, who replaced the former as counsel for Lacson, is extremely puerile; the accused himself, as well as counsel for the other defendants, knew of the foretold evidence, must have realized its importance, and would not have failed to advise new counsel of it.

It is likewise charged by the appellants that the prosecution witnesses were supported during the trial by political enemies of the accused. Assuming this fact to be true, it is no evidence that for such trifling sums, the witnesses would agree to perjure themselves and falsely charge herein appellants with a capital offense. Why should these witnesses point out only the accused Camalon, Jabonete, Tolentino, Alipalo and Laos as those who actually had a hand in the torture and death of Padilla, and not include such well known SP group leaders like Valencia and Pahilanga, if their story were concocted just to wreck revenge upon Lacson and his leading henchmen?

As to the omission in the pretrial affidavits of some facts later testified to in court by the affiants as prosecution witnesses, suffice it to point out that such omissions do not necessarily impair their credibility, specially where the witnesses were illiterate, ignorant or untrained (*II Moore on Facts*, Sec. 955).

Finally, the protection given by the Armed Forces to the prosecutors and their witnesses is no indication of subornation of perjury by the military. The precaution was plainly called for, considering that the accused-appellants were but a small fraction of the body of special agents of Governor Lacson, and that their companions and sympathizers remained at large.

Considerable space in the briefs for appellants has been devoted to the charge that the court below exhibited patent bias against the accused and had conducted the trial in a tyrannical and arbitrary manner prejudicial to the rights of the defense. We do not find such charges substantiated by the record. What appears therein is that the trial court bent every effort to expediting the case, which dragged for years, and repeatedly blocked delaying tactics of the defense; but we find no justification for the charge that the rights of the accused were substantially prejudiced thereby. Erroneous ruling do not constitute by themselves proof of bias against the party adversely affected; and from what the record shows, the Court dispensed adverse rulings against the prosecution about as often as against the defense.

We are unable to find reversible error in the Court's refusing to countenance repeated postponements requested by

defense attorneys, nor in its resistance to have its hand forced by the unexpected withdrawal of some of the defense counsel. Neither was there arbitrariness in its rejection of the attempt to allow the evidence of some of the accused (who were represented by the same counsel) to be presented separately for each of them, when there was no showing that their defenses were incompatible. To have done so would have converted a joint trial into a separate one, with the consequent delay.

We see no reversible error either in the Court's withdrawal of the separate trial originally granted to some defendants upon representation that counsel for some accused would be indefinitely away on account of alleged illness, when subsequently said counsel reappeared after a brief absence and was given ample opportunity to re-examine the witnesses who had testified during the trial. This Court has already ruled that trials should be regarded as a joint endeavor of court and counsel to ascertain the true facts and applicable law as expeditiously as possible, and not as a game of technicalities where the judge is to be reduced to the passive role of an umpire charged with the exclusive task of awarding the prize to superior skill.

While the rulings of the trial court may have borne hard on the defense in certain instances, we find no real prejudice to its right under the law. The justification of the Court's attitude lies in the voluminous records before us, wherein an unreasonable proportion of its pages is devoted to wranglings of counsel that make the piecing out of the actual evidence a difficult matter involving much more labor and time than it should have. Had the Court below yielded to all the demands of counsel and inquired into all collateral issues submitted, the trial would have been more prolonged and the record more voluminous, and the case ultimately would have become the classical "ruda indigestaque moles".

We are satisfied that the evidence on record proves beyond reasonable doubt that the slaying of Moises Padilla was incited and ordered by appellant Rafael Lacson, and carried out, as conspirators and executants, by appellants Felix Camarines, Vicente Hajar, Norberto Jabonete, Joaquin Tolentino, Ernesto Camalon, Felix Alipalo, Ceferino Laos and Manuel Ramos.

The crime committed by these appellants was evidently murder, the slaying of Padilla being qualified by treachery, since the helpless and tortured Padilla was repeatedly shot from the back. Its commission was further aggravated by the circumstances of reliance on the aid of armed men, in view of the accompanying armed escort from the time of the arrest to that of the slaying; by the offenders' taking advantage of their official position; and by the employment of unnecessary cruelty.

What renders this murder particularly repugnant is its being a naked attempt to suppress by force the political liberties of the people. And in "a much vaunted democracy such display and use of brutal force and terrorism, cannot, and must not be, tolerated; and those resorting to such violence, shall be held strictly responsible for the acts committed by them" (People vs. Gonzales, 76 Phil., 473, 480).

Turning now to the other appellants. As to Jose Valencia, we do not find sufficient evidence to consider him criminally responsible as co-principal in the present case. The evidence is that on November 12, it was Valencia who ordered his men to "go to Magallon and liquidate" Padilla, and he led the group of armed guards but did not find his quarry. That he was aware of the intended crime is clear; yet the evidence fails to establish that he had any share in the torture of Padilla or in taking him away on his last ride. This absence of Valencia at the critical occasions following Padilla's arrest is significant, for he could be expected to take an important role in the tragic events as an overall leader of the special guards, and raises doubt as to his actual participation in a conspiracy against Padilla. Apparently, he was merely obeying orders. Giving him the benefit of the doubt, we think that Valencia's liability is only that of an accomplice, since he took no direct hand in the murder or in the events immediately leading to it, nor were his previous actuations indispensable to its commission.

The same considerations apply to the appellants Ignacio Altea, Anatalio Vasquez, and Jesus Agreda. These three (Vasquez, Altea and Agreda) voluntarily subscribed affidavits in support of the false charge of sedition filed against Padilla and his followers, knowing, as they must have known, that it was untrue that a submachine gun had been found in his possession. Their acts facilitated the illegal detention and torturing of Padilla. It is difficult to believe that these appellants should have done so without an inkling as to what was intended for Padilla, and they appear to have voluntarily assented thereto. Thus, Altea took part in the maltreatment of Padilla in the Magallon cemetery and of Padilla's companions Dalumpines and Vicente Ablao; Vasquez was a member of the armed escort that brought Padilla and his companions from Dr. Hermano's house in Isabela to the municipality of Magallon, together with the SPs Tolentino, Camalon, Jabonete and Alipalo; appellant Agreda was one of those who stood guard over Padilla at Magallon, besides executing an affidavit to support the false charge of sedition. While it does not appear that these appellants agreed to take concerted action against the deceased, the evidence is sufficient to indicate that they knowingly volunteered assistance to the principal offenders. Although proved to have participated in the criminal intent, yet, the cooperation of these appellants was in no way indispensable to the carrying out of the final offense, hence they must be held liable as accomplices merely (Decision, Supreme Court of Spain, 8 January 1909; *People vs. Tamayo*, 44 Phil., 38, and cases therein cited).

With respect to the other appellants Felix Camarines, Joaquin Balota, Juanito Labaosas, Juanito Fernando, Florentino Salgo, Mariano Pahilanga and Raymundo Adle, we agree with the Solicitor, General that the evidence against them fails to warrant conviction. That they should have been seen, each on one single occasion, in the group of guards and policemen that arrested Padilla, held him in custody, or among those that conveyed him from one municipality to another, is too flimsy a base to support the finding that these appellants were privy to the plan to liquidate Padilla or that they should be answerable for his torture and death, as co-conspirators responsible for the acts of their companions. No evidence was given that they ever laid hands on the deceased or were seen to help on those occasions when he was tortured, or when he was last seen alive. While Adle did return in the motor truck that carried Padilla's corpse, it does not appear when he boarded it, or whether he was in the group that took Padilla away. The presumption of innocence in their case has not been overcome by proof beyond reasonable doubt.

The same observations apply to appellants Jose Gayona, Jr. (then Mayor of Magallon) and Claudio Montilla (of Isabela). While these mayors were present at various conferences where appellant Rafael Lacson outlined his plans to have Padilla maltreated and ultimately liquidated, as testified by witnesses Roca, Borromeo and Enriquez, no positive act of assent or cooperation on their part was proved. All that we can gather from the evidence is that they made no protest against the plans of Lacson; that they passively heard them merely observing silence or a non-committal attitude, in contrast with that of appellant Ramos, whose remark "Did you hear what Governor Lacson said?", addressed to his followers, constituted an open unequivocal indorsement of what was proposed to be done to Padilla. Even if after hearing Lacson speak about arresting Padilla, having his buttocks skinned and vinegar poured on them so he should not last long and could not be bailed out, Montilla should have remarked "So the Governor is decided to do whatever things against those who oppose", no assent or promise to cooperate on his part can be inferred. While Gayona and Montilla turned down pleas to help Padilla or his companions, they did so on the ground that they were powerless to intervene; and if at all, their conduct reveals that they were simply afraid of the Governor and would not oppose him. Unfortunate as this passive attitude should be in persons charged with the leadership of their respective municipalities, it constitutes neither conspiracy nor complicity (*People vs. Asad*, 55 Phil., 699-701). In the case of both Mayors, their being civilians makes fear of the armed force at the command of the Governor, and of the latter's explosive temper, certainly more understandable than in the case of the Provincial Commander of the Constabulary, Marcial V. Enriquez.

In view of the foregoing, the Court is of the opinion that the accused-appellants Rafael Lacson, Manuel Ramos,

Joaquin Tolentino, Ernesto Camalon, Norberto Jabonete, Felix Alipalo, Ceferino Laos and Vicente Hajar have been shown guilty, beyond reasonable doubt, of the torture and murder of the late Moises Padilla, Rafael Lacson as principal by induction and the others as conspirators and direct participants therein. The crime being qualified by treachery and aggravated by aid of armed men, cruelty and abuse of official position, the penalty of death imposed by the trial court should be and hereby is affirmed as to them, except appellant Lacson; and they are further sentenced to indemnify, jointly and severally, the heirs of the deceased in the amount of P6,000.00. For lack of the requisite number of votes, the penalty on appellant Rafael Lacson is reduced to reclusion perpetua, without affecting his civil liability.

We also find appellants Jose Valencia, Ignacio Altea, Anatalio Vasquez, Jesus Agreda, and Rafael Morada guilty as accomplices to the offense described, and each of them is sentenced pursuant to the Indeterminate Sentence Law, to a minimum of six (6) years and one (1) day of prision mayor and not more than fifteen (15) years of reclusion temporal, and to the subsidiary payment, but solidarity among themselves, of the indemnity to the heirs of the deceased heretofore imposed upon the principal offenders.

Appellants Claudio Montilla, Jose Gayona, Jr., Mariano Pahilanga, Raymundo Adle, Juanito Fernando, Juanito Labaosas, Felix Camarines, Florentino Salgo, and Joaquin Palota are acquitted for insufficiency of evidence.

Costs of the proceedings to be apportioned among all convicted appellants.

Labrador , Concepcion , Reyes, J.B.L., Paredes, and Dizon, JJ., concur.

CONCURRING AND DISSENTING OPINION

BAUTISTA ANGELO, J.:

The narration of the events which led to the death of Moises Padilla appearing in the majority opinion appears to be borne out by the evidence, but since the conclusions drawn therefrom regarding the complicity of appellant Lacson in all the incidents surrounding Padilla's death do not seem warranted nor justified, I am constrained to express my views on the matter.

The first link pointed out which allegedly connects Lacson with the killing is the claim that when Padilla launched his candidacy for the mayorship of Magallon, Dr. Alfredo Hermano and some companions went to his house to convey to him the wish of Lacson that he withdraw his candidacy, to which Padilla refused to pay heed. This is now invoked as the motive which induced Lacson to have him arrested, tortured and killed. But it should be borne in mind that Padilla was defeated in the elections by the candidate of Lacson, who had nothing personal against Padilla. In fact, when Padilla got wind that Manuel Ramos was on his way to arrest him he sought the intervention of Dr. Hermano in an effort to make him arrange a conference with Lacson but that Hermano refused considering it late and futile. With the victory of the governor's candidate over Padilla, common sense dictates that whatever resentment he may have against Padilla for his refusal to withdraw his candidacy would have been forgotten. It cannot certainly engender in him the desire to kill him. Moreover, the town of Magallon , being newly created and small, cannot have much political significance insofar as the power and influence which Gov. Lacson then wielded in the province.

The utterance which Gov. Lacson allegedly made in the brief conference he had in appellant Ramos' house on his way to the political meeting scheduled to take place in the evening of November 11, 1951 in the public plaza of Magallon to the effect that if Ramos would follow what he had told him (referring to the arrest of Moises Padilla) everything he needed would be approved, apart from the fact that it was denied by Lacson and his witnesses, can only have one implication: he wanted the arrest of Padilla; beyond that nothing more was said. No mention was

made about his killing.

Much less can be said about the utterance of Gov. Lacson during the meeting held in the plaza of Magallon. The most he said on that occasion was that they should not vote for Padilla because he was a dissident, a criminal, and that in order that the town may be peaceful, "it should be better to eliminate Padilla," Here the meaning of the word "eliminate" was never explained. It cannot necessarily mean killing. Since it was a political meeting the only rational implication is that Lacson merely wanted the defeat of Padilla as a candidate.

The situation differs with regard to the utterance of appellant Ramos. It is he who waxed bitterness against Padilla. Thus, he said: "Why should you select Moises Padilla? He is a criminal. During the guerrilla time he killed many people. He had my brother killed. He even ordered to kill my brother. Now his time has come." It is Ramos, therefore, who had personal motive to kill Padilla.

It is alleged that after that meeting Lacson and his party repaired to the house of Montilla, mayor of Isabela, where he had supper and a conference with his political leaders and that when one Meleneio Borromeo, one of those present, expressed to Lacson his fear for Gayona's candidacy in Magallon, Lacson allegedly made the following remarks: "Regarding Magallon, you should have nothing to fear because I have already given instructions * * * to guard all the possible escape of Moises Padilla. I would have him manhandled. I will not just lodge him in jail because there is a possibility that some of the big shots who are his friends may bail him out and he may result to be a dangerous fellow. And I will have his buttocks skinned and put some vinegar because in that manner he will not last long." But this fellow Borromeo turned out to be a disgruntled politician who wanted to be a candidate for the mayorship of Magallon, in lieu of candidate Gayona, to which Lacson objected, and as a result he had to resign being a candidate for councilor, where he was even defeated apparently due to the withdrawal of Lacson's support. And even if the above utterance be given a semblance of truth, yet one can hardly give it importance considering the occasion in which it was uttered. Such utterance can hardly be taken seriously. In fact, no such thing has happened. The death of Moises Padilla occurred under different circumstances.

Much capital is made of what one Jedidea Roca stated when on November 12, noontime, he went to the house of Mayor Montilla in Isabela, his godfather, to attend to some errand. He said that on that occasion appellant Jose Valencia, a close henchman of Lacson, after talking to some members of the ROTC who went there to investigate an incident, gathered his men and said to them: "Let us now look for Moises Padilla and liquidate that fool." And upon hearing this Roca alarmed for the safety of Padilla, his friend and former comrade-in-arms, sent him a warning note on the piece of cigarette wrapper saying: "If you had the chance to escape tonight do it. Jose Valencia is going there to liquidate you. Tell Cente to watch his move."

Much has been said about the genuineness of the alleged note the presentation of which as evidence was strongly objected to by the defense. But even if we consider it as a valid evidence, still it cannot damage Lacson for there is nothing to show that Valencia has acted upon his orders. Apparently, Valencia did it on his own account following the instruction of Lacson to have him arrested, but not have him liquidated. In the absence of any more direct connecting link, this piece of evidence can only prejudice Valencia and not Lacson.

Then came election day. It is claimed that Jedidea Roca again went to the house of Mayor Montilla in Isabela for some personal reasons and that at about noon he heard a voice over the speaker of a radio installed in the balcony of the house blaring: "Calling Isabela, calling Isabela." Immediately the radio operator answered and when the voice in the other end replied that it was the governor calling because he had a message for Jose Valencia, the latter took hold of the radio and had a talk with Lacson. It turned out that the governor merely wanted to know the progress of the election. After Valencia had reported that about 1/2 of the voters had already gone to the booths, he volunteered to ask Lacson if Padilla may be allowed to go to Manila after the elections, whereupon he was told

not to allow him to go out of Magallon, nor to release him, but instead arrest him, manhandle him and detain him.

Much can also be said about the credibility of this witness who apparently made an effort to connect Lacson with the elections in Magallon by intercalating an alleged conversation between Valencia and Lacson regarding the arrest of Moises Padilla. But even if the alleged query on the part of Valencia as to what he should do with Padilla after his arrest be given some value, still it cannot do much harm to Lacson for at most it would reveal that Lacson merely desired to have Padilla arrested for his belligerence against him. There is nothing said in the conversation about the liquidation of Padilla.

Lastly, early in the morning of November 15, 1951, a conference was allegedly held by Gov. Lacson in his house at Talisay where many were present in answer to his investigation. Present in the conference were, among others, Mayor Montilla of Isabela, Dr. Alfredo and Mayor Gayona of Magallon. There were many other persons who went there to congratulate the governor, over his victory and his men in the elections recently held. It is claimed that in, that morning Captain Marcial B. Enriquez, provincial commander of that place, also went, to, said house in obedience to the instructions of Col. Mascardo to verify a supposed information relative to the arrest of Padilla. In spite of the fact that Enriquez was already assured by Mayor Montilla and Dr. Hertnano that the news about Padilla's arrest was true, Enriquez, according to him, elected to stay and on that Occasion he heard the governor tell his friends that Padilla was a dissident and, therefore, in order to serve as an example, he should be taken and paraded around Magallon and manhandled in the course thereof; then taken to Isabela repeating the same procedure of manhandling in the interior of the town; and then taken back to La Castellana and shot to death in case he should attempt to escape while being taken to Bacolod Provincial Jail. He added that Lacson instructed Mayors Montilla, Gayona and Ramos to alert their police forces against possible retaliation by Padilla's followers and to place them under his special agents who should take charge of the arrest and manhandling of Padilla.

Capt. Enriquez seems to be star witness of the prosecution judging from what he had exposed regarding the plan of Gov. Lacson concerning the fate of Padilla but, as may be noticed, even his narration suffers from the flaw that it does not reflect the claim of the prosecution that Lacson planned or entertained to kill Padilla. While it may be inferred from his expose that Lacson planned to have Padilla arrested so that he may be paraded around, he said nothing about his killing except perhaps what he added that if he should attempt to escape he should be shot. Here, however, he never attempted to escape. Indeed, he never had any chance to do it, despite the statement to the contrary of Hajar in his affidavit, because of the intense suffering and torture to which he was subjected as already pointed out.

Finally came the arrest of Padilla and his followers in the early morning of November 15, 1951 in the residence of Dr. Hermano in Isabela by some members of the police force led by appellants Norberto Jabonete and Ernesto Camalon, his confinement and torture in Isabela and Magallon and ether places where he was taken under the pretext that he had hidden some firearms which he refused to surrender, until in the evening of November 16, 1951, when he was taken by appellant Manuel Ramos to the cemetery of Castellana where, by the grave of his father Pascual Ramos, he wept and said: "Papa, rise up. Here is now the man who killed your son. Here is now the man wanted by the governor. I will be the one to kill this man." Afterwards, Ramos ordered that Padilla be taken to his house. Then Ramos was heard telling his men to kill Padilla themselves as it was the order of the governor. Moments later shots were heard which eventually led to the death of Padilla.

It should be noted that the arrest of Padilla was allegedly effected through a warrant of arrest issued by the justice of the peace of Magallon by virtue of a complaint for sedition sworn to by Anatalio Vasquez, Jesus Agreda and Ignacio Altea and that afterwards he was taken to different places and tortured apparently with the knowledge and order of Gov. Lacson. But there is no clear evidence to indicate that the shooting of Padilla was upon his orders. Yet the same is attributed to the governor upon the bare pretense that the men who did it were all accountable to

him. While under ordinary circumstances the action of a subordinate may be ascribed to his master if the former acts under the latter's instruction, a more substantial evidence is required when the acts involved are so serious that go to the extent of involving the life of an individual. Here there is no such substantial evidence, but only loose pieces which even if taken together may only result in individual accounting and responsibility. In other words, while it appears quite evident that Gov. Lacson had planned to arrest Padilla to remove him as a dangerous opponent of his candidate for the mayorship of Magallon, the evidence is not clear that in such desire he went to the extent of depriving him of his life.

With regard to the motive behind the death of Padilla, this much appears clear in the evidence: Manuel Ramos had the conviction that Padilla was the one who ordered the killing of his brother. For this act he became bitter against him and only waited for a chance to retaliate. This came during the elections of 1951 when Gov. Lacson ordered his arrest and once arrested Ramos had him under his custody to suit his purpose. It was on this occasion that he ordered his liquidation.

I am with the majority that Gov. Lacson had organized during his incumbency a tightly-knit private army composed of agents and provincial guards commonly known as special police who were under his absolute command and whose specific duties were to carry out his official orders and that he had made use of this force in order to strengthen and maintain his political hold on the people. Nevertheless, I am of the opinion that while the acts of torture committed by his men in the person of Padilla can be attributed to him and for which he is responsible, they are, however, only so to the extent of the orders he has given as may be reflected from the evidence. They cannot be extended beyond their clear import. As I have already said, his instructions were only to arrest, manhandle and kill Padilla if he tried to escape. This never happened. The most, therefore, that can be said is that Lacson is guilty of the abuses committed by his men as an accomplice for not having taken the steps necessary to prevent them, but not as a principal as found by the majority. For these reasons, I dissent.

Paras, C. J., Bengzon, and Padilla, JJ., concur.

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