

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. EDUARDO P. CAGUIOA, JUDGE, COURT OF FIRST INSTANCE OF BULACAN, BRANCH VIII, AND PAQUITO YUPO, RESPONDENTS.*G.R. No. L-38975. January 17, 1980*

Ponente: FERNANDO, C.J.

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It is not easy to make out a case of improvident exercise of authority on the part of a lower court when the assailed actuation was clearly inspired by a desire to adhere to the literal and explicit mandate of the Constitution. That is the difficulty confronting the prosecution when it filed this certiorari proceeding resulting from respondent Judge Eduardo P. Caguioa sustaining the objection of the defense to questions asked a witness based on an alleged extrajudicial admission by an accused, private respondent Paquito Yupo, during a police interrogation conducted on July 18, 1973, without his having been assisted by counsel. There was, in the opinion of respondent Judge, a clear failure to abide by the express prohibition in the fundamental law against the admissibility of any confession obtained from a person under investigation without his having been informed of his right to keep silent and to have the benefit of counsel.[1] Clearly then, the leading case of *Magtoto v. Manguera*[2] does not apply, the interrogation having taken place six months after the effectivity of the present Constitution. The prosecution would deny its applicability, contending that there was a waiver. Respondent Judge was of the view that this innovation in the Constitution, intended to buttress and fortify the right against self-incrimination, was not susceptible of waiver. When he remained firm in his stand, the petition was filed, a grave abuse of discretion being imputed to him.

According to the petition, the Provincial Fiscal of Bulacan filed on September 14, 1973, in the Court of First Instance of Bulacan, an information for murder against Paquito Yupo y Gonzales, which was docketed as Criminal Case No. 146-V-73, with the case, after the raffle, being assigned to Branch VIII, presided by respondent Judge.[3] Upon arraignment on October 5, 1973, the accused pleaded not guilty.[4] The trial of the case then proceeded, the prosecution having presented six witnesses, including the father of the deceased, Miguel Tribol, and his common-law wife, Lydia Begnotia, who allegedly received the ante mortem statement of the victim, Rodolfo Tribol.[5] Then, at the hearing on June 3, 1974, the prosecution presented Corporal Conrado Roca of the Meycauayan Police Department, before whom a written statement of the accused Paquito Yupo and his alleged waiver of his right to remain silent and to be assisted by a counsel of his own choice was taken.[6] After this witness had identified the statement of the accused and the waiver, he was questioned on the incriminating answers in such statement to the police, but there was an objection on the part of the defense counsel based on the ground of such statement being inadmissible in evidence, as the statement was taken by the police without any counsel assisting the accused in the investigation.[7] Respondent Judge sustained the objection of the defense on the view that such judicial confession of the accused is inadmissible in evidence for being unconstitutional, it appearing that the accused was not assisted by a counsel when it was given.[8] He likewise stated that such right could not be waived.[9] Upon his refusal to reconsider such ruling, this petition was filed.

Certiorari does not lie. The petition must be dismissed. It was not shown that the alleged waiver was given freely and voluntarily. The questioning was rather perfunctory. An even more telling circumstance against such alleged waiver being given credence was that private respondent, a native of Samar, then nineteen years old, was interrogated extensively in Tagalog, no showing having been made that his acquaintance with the language was such that he could fully understand the import of what was asked him. On the specific question of whether or not the right to counsel during custodial interrogation may be waived, the Court rules that there is no bar to such a waiver if made intelligently and voluntarily, with full understanding of its consequences.

- As far back as *Abriol v. Homeres*,^[10] a 1949 decision, decided under the 1935 Constitution, which did not contain a provision similar to Section 20 which adopted the Miranda doctrine, this Court, through Justice Ozaeta, relying on the leading American case of *Johnson v. Zerbst*,^[11] made clear that while there could be a waiver of the rights of an accused, it must be intelligently waived, otherwise a court's jurisdiction starting at the beginning of the trial may be lost in the course of the proceeding.^[12] The landmark opinion of *Miranda v. Arizona*,^[13] decided in 1966, as noted above, the source of this constitutional provision, emphasized that statements made during the period of custodial interrogation to be admissible require a clear intelligent waiver of constitutional rights, the suspect being warned prior to questioning that he has a right to remain silent, that any utterance may be used against him, and that he has the right to the presence of a counsel, either retained or appointed. In the language of Chief Justice Warren: "Our holding will be spelled out with some specificity in the pages which follow, but briefly stated, it is this: the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of those rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned."^[14]

- Tested by such a clear and unequivocal standard, the alleged waiver falls far short. It is clearly inadmissible. There was a perfunctory opening statement asked by a certain Corporal Conrado B. Roca of the Police Force of Meycauayan, worded thus: "Ipinaalam ko sa iyo na ikaw ay sinisiyasat tungkol sa isang paglabag sa batas na iyong ginawa, bago ko ipagpatuloy ang pagtatanong sa iyo, ikaw ay may karapatan na huwag magsalita kung ayaw mo at may karapatan ka rin na magkaroon ng abogado na iyong gusto, at dapat mo ring mabatid na anuman ang sabihin mo dito ay maaaring gamitin ng ayon o laban sa iyo, magsasalaysay ka pa rin ba?"^[15] Then came the monosyllabic answer Opo. That was all. Even the very annex submitted to the petition merely stated that there were signatures of private respondent Yupo, the aforesaid Roca, and a certain Roberto Sales. The day when it was subscribed and sworn to, allegedly before Municipal Judge Mariano Mendieta, was not even specified. Again, there was a statement that it was a certified true copy by a certain Teresita M. Tecson, whose connection with the case or with the court was not even shown. There was no signature. There were only illegible letters, perhaps indicating that they were the initials. The doubt that must have occurred to the police officials of Meycauayan is

evident from their submitting a one-page statement, presumably signed by the same people and certified by the same Tecson, reading in full as follows: "[Sa sinumang Kinauukulan]: Ipinabasa, ipinaalam at naintindihan ni [Paquito Yupo y Gonzales], 19 na taong gulang, binata tubo sa San Policarpio, Eastern Samar ang nasa ibaba nito: 'Ikaw ay sinisiyasat ngayon dahilan sa paglabag sa batas. Karapatan mo ang huwag magsalita. Anumang iyong sasabihin ay maaring gamiting katibayan laban sa iyo. At ikaw ay may karapatan sa tulong at sa pagharap ng abogado na iyong napipisil.'" [16] Could it be their way of trying to impress on a court the fact that there was an intelligent waiver? If so, it did not cure the fatal infirmity. Rather the contrary.

- People v. Bacong[17] stands as a warning against imputing to an accused an understanding of the proceeding when the language used is one with which he is not familiar. The point at issue was whether there was an improvident plea of guilt. It was stressed in the brief filed on behalf of the accused that he " 'is an ignorant and illiterate person, a neophyte in the national penitentiary, and one fully conversant [only] with his native Visayan. This is apparent from his statement thus: "26. T. Marunong ka bang bumasa at sumulat ng wikang tagalog? S. Naka-uunawa po ako sir, pero hindi po ako masyadong marunong, ang tangi ko pong naiisulat ay ang aking pangalan." * * * An observation and closer look [at] his signature indeed reveals that the accused is an illiterate and unschooled person. The strokes of his signature are irregular, halting, and show a difficult and laborious effort to write the letters of his name. * * * In his signature on file with this Honorable Court, the same observations can be made. * * * Admittedly, the accused is a Visayan and still a neophyte in the national penitentiary who does not understand well Tagalog. * * * We cannot expect the accused to have fully understood the legal signification of these qualifying circumstances, which allegations had been the subject of various interpretations of our courts. * * * ' "[18] As a matter of fact, in that case, Solicitor General Estelito P. Mendoza, in lieu of appellant's brief, filed a manifestation admitting that there was an improvident plea of guilt and that judgment should be set aside. In that case, there was an effort to ascertain whether the accused could read and write in Tagalog. In this case, the private respondent, a Visayan, was asked a kilometric question in Tagalog, and the interrogator was satisfied with the monosyllabic Opo. Also, the failure to submit to this Court the alleged signature of private respondent may be indicative of the fear on the part of counsel for petitioner that the absence of education of the nineteen-year old private respondent would be apparent. At any rate, it cannot be denied that to predicate a waiver under the circumstances disclosed would be to nullify the plain command of the constitutional provision requiring that a confession to be admissible must be given only if the accused were informed of his right to remain silent and to counsel; otherwise, it is "inadmissible in character." The lower court, therefore, acted in accordance with the plain dictate of the Constitution. To quote from that eminent civil libertarian, Justice Douglas: "Formulas of respect for constitutional safeguards cannot prevail over the facts of life which contradict them. They may not become a cloak for inquisitorial practices and make an empty form of [constitutional rights]."[19]

WHEREFORE, the petition for certiorari is dismissed. The trial of the case is ordered to be resumed forthwith. No costs.

Makasiar, Concepcion, Jr., Santos, Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Barredo, J., concurs in a separate opinion.

Teehankee, J., in the result.

Antonio, J., concurs with J. Aquino.

Aquino, J., see attached dissent.

[1] According to Article IV, Section 20 of the Constitution: "No person shall be compelled to be a witness against

himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

[2] L-37201-02, March 3, 1975, 63 SCRA 4.

[3] Petition, pars. 2 and 3.

[4] Ibid, par. 3.

[5] Ibid, par. 4.

[6] Ibid, par. 5.

[7] Ibid, par. 6. The statement is attached as Annex B to the petition, and the alleged waiver, as Annex C.

[8] Ibid, par. 7.

[9] Ibid.

[10] 84 Phil. 525.

[11] 304 US 458.

[12] 84 Phil. 525, 531.

[13] 384 US 436.

[14] Ibid, 444-445.

[15] Annex B of Petition, 1.

[16] Annex C of Petition.

[17] L-36161, December 19, 1973, 54 SCRA 288.

[18] Ibid, 290-291.

[19] *Haley v. State of Ohio*, 332 US 596, 601 (1948).

DISSENTING OPINION

AQUINO, J.:

I dissent. "A defendant may waive effectuation of his rights to remain silent and to be assisted by counsel at a custodial police interrogation, provided the waiver is made voluntarily, knowingly, and intelligently" (*Syllabus, Miranda vs. Arizona*, 16 L. Ed. 2d, 694, 697).

In the *Miranda* case, it was spelled out that the accused, who is in police custody, "must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation". The Court added:

"After such warnings have been given, and such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement.

"But unless and until such warnings and waiver are demonstrated by the prosecution at the trial, no evidence obtained as a result of interrogation can be used against him." (Ibid, page 726).

In the instant case, the accused, Paquito Yupo, while in police custody, executed the following waiver of his constitutional rights to remain silent, not to incriminate himself, and to be assisted by counsel:

"Republika ng Pilipinas
Lalawigan ng Bulacan
Bayan ng Meykawayan

"TANGGAPAN NG PUNO NG PULISYA

"Ika-18 ng Hulyo, 1973

"SA SINUMANG KINAUUKULAN:

"Ipina basa, ipinaalam at naintindihan ni PAQUITO YUPO Y GONZALES, 19 na taong gulang, binata tubo sa San Policarpio, Eastern Samar ang nasa ibaba nito:

'IKAW AY SINISIYASAT NGAYON DAHILAN SA PAGLABAG SA BATAS. KARAPATAN MO ANG HUWAG MAGSALITA. ANUMANG IYONG SASABIHIN AY MAARING GAMITING KATIBAYAN LABAN SA IYO. AT IKAW AY MAY KARAPATAN SA TULONG AT SA PAGHARAP NG ABOGADO NA IYONG NAPIPISIL.'

"Sa kabila ng kabatiran ni PAQUITO YUPO ng mga nilalaman ng nasa itaas nito, siya ay nagbigay pa rin ng salaysay.

(SGD.) PAQUITO YUPO

"NILAGDAAN SA HARAP NINA:

(SGD.) CONRADO B. ROCA (SGD.) ROBERTO SALES"

On that same date, July 18, 1973, when Paquito Yupo executed the waiver of his constitutional rights, his statement was taken by Corporal Conrado B. Roca of the Meycauayan, Bulacan police. That statement or extrajudicial confession also contains a warning to Yupo as to his constitutional rights to remain silent, not to incriminate himself and to be assisted by counsel. The warning and waiver read as follows:

"1 - Tanong: Ipinaalam ko sa iyo na ikaw ay sinisiyasat tungkol sa isang paglabag sa batas na iyong ginawa, bago ko ipagpatuloy ang pagtatanong sa iyo, ikaw ay may karapatan na huwag magsalita kung ayaw mo at may karapatan ka rin na magkaruon ng abogado na iyong gusto, at dapat mo ring mabatid na anuman ang sabihin mo dito ay maaaring gamitin ng ayon o laban sa iyo, magsasalaysay ka pa rin ba?

"Sagot: Opo.

"2 - T: Ang salaysay mo bang ito ay sarili at kusa mo na hindi ka pinilit, sinaktan, tinakot o pinangakuan ng anumang pabuya?

"S: Opo."

On the basis of Yupo's confession, the provincial fiscal filed against him an information for murder in the Court of First Instance of Bulacan.

At the trial of that case, the prosecutor presented as witnesses (1) Miguel Tribol, the victim's father, (2) Lydia

Begnotia, who heard the ante mortem statement of the victim, pointing to Yupo as his assailant, (3) the medico-legal officer who conducted the autopsy, (4) two policemen and (5) Gracia Santos Wage.

Then, at the hearing on June 3, 1974, the prosecution placed on the witness stand Corporal Roca to identify the extrajudicial confession of the accused, marked as Exhibit C, and his written waiver of his constitutional rights, marked as Exhibit F.

When police investigator Roca was questioned as to the incriminating answers given by Yupo in his extrajudicial confession, the defense counsel interposed an objection on the ground that the confession is inadmissible in evidence because it was taken by Corporal Roca without any counsel assisting the accused.

Judge Eduardo P. Caguioa sustained the objection and ruled right away that Yupo's extrajudicial confession was inadmissible in evidence. Judge Caguioa said:

"COURT: In view of the fact that the testimony of the witness is to the effect that in the taking of the statement of the accused in this case there was present no lawyer on the ground that he was waiving his right in a writing as per Exhibit F of the prosecution, and considering the provisions of the Constitution that an accused in making statement during investigation should be assisted by counsel at any stage of proceedings, and considering the history of this provisions of the Constitution, the Court believes that this right to counsel cannot be waived, otherwise he will again lapse into the same situation which was sought to be cured by the Constitution, namely, the making forcibly of the statement of the accused based on supposed voluntary waiver made by the accused.

"The Court believes that when the accused is under custody, he cannot be said to be in the full possession of his constitutional right, and considering that this provisions of the Constitution was precisely enacted to counteract forced confession obtained by police department and to prevent therefore accused from being maltreated to extort from them involuntary confession, the Court is of the opinion that these constitutional rights are not subject to waiver and any waiver of the accused will be null and void.

"In view thereof, the Court believes that this Exhibit C of the prosecution (the confession) is inadmissible in evidence for being unconstitutional, and therefore the Court sustains all objections of counsel for the accused objecting to the admission of any question with regards to the exhibits."

Respondent Judge made a premature ruling on the admissibility of the confession. It was merely being identified. It was not yet being formally offered in evidence. The time to object to the admissibility of the confession, Exhibit C, is when it is formally offered in evidence and that is when the prosecution is at the stage of closing its case. That is the well-known practice.

Respondent Judge also erroneously assumed that the right to counsel cannot be waived. As shown in the ruling in the Miranda case, already quoted, the right to counsel may be waived during custodial interrogation.

Corporal Roca was placed on the witness stand to testify on the voluntariness of the confession and to show that a sufficient notice was given to the accused as to his constitutional rights and that he waived those rights voluntarily, knowingly and intelligently. Roca would declare that the requisites of section 20, Article VI of the Constitution were complied with or that the confession is admissible in evidence. His testimony should be allowed. To reject his testimony outright would prevent the prosecution from showing that the confession is admissible.

The accused may rebut Roca's testimony. On the basis of Roca's testimony and the testimony of the accused, if he repudiates his confession, the trial court may rule, when the confession is offered in evidence, that it is inadmissible because there was no compliance with the constitutional provisions.

I believe that Roca in taking the confession and waiver of Yupo endeavored to adhere strictly to the guidelines laid down in the Miranda case.

I vote for the reversal of respondent Judge's ruling and to allow the fiscal to propound questions to Corporal Roca on Yupo's confession and waiver of his constitutional rights.

CONCURRING OPINION

BARREDO, J.:

I concur. I would like to underline, however, the important point that the Court rejects unanimously the view on which respondent judge based his ruling under review, that the right to silence and to counsel during custodial investigation is not subject to waiver. Both the main opinion of our eminent Chief Justice as well as the dissenting opinion of our other distinguished colleagues Justices Aquino and Antonio underscore the point that said rights are indeed subject to waiver, the only requirement in that regard being that such waiver must be proven to have been made voluntarily and intelligently.

But it is as to the legal significance or import of the waiver made by the accused Paquito Yupo, herein private respondent, that the dissenters disagree with the main opinion. The dissenters feel that there is enough showing in the record that said accused had freely and conscientiously waived his right to silence and to counsel before he was interrogated by Corporal Roca, the investigator. On my part, I agree with the Chief Justice that merely informing a person under custody of his constitutional rights under the circumstances hereinunder to be stated and thereafter taking down his statement does not sufficiently safeguard those rights.

Thus, in the particular case at bar, the prosecution would deduce free and intelligent waiver from no more than the following:

(a) The perfunctory opening question and answer, which has been the usual form ordinarily followed by practically all police investigators reading thus:

"Ipinaalam ko sa iyo na ikaw ay sinisiyasat tungkol sa isang paglabag sa batas na iyong ginawa, bago ko ipagpatuloy ang pagtatanong sa iyo, ikaw ay may karapatan na huwag magsalita kung ayaw mo at may karapatan ka rin na magkaroon ng abogado na iyong gusto, at dapat mo ring mabatid na anuman ang sabihin mo dito ay maaaring gamitin ng ayon o laban sa iyo, magsasalaysay ka pa rin ba?

"Opo."

(b) A subsequent statement apparently taken by the Meycauayan police evidently purported to cure the apparent inadequacy of the waiver evidenced by the question and answer just quoted was introduced in evidence. Said statement reads as follows:

"TANGGAPAN NG PUNO NG PULISYA

"Ika-18 ng Hulyo, 1973

"SA SINUMANG KINAUUKULAN:

"Ipinabasa, ipinaalam at naintindihan ni PAQUITO YUPO Y GONZALES, 19 na taong gulang, binata tubo sa San Policarpio, Eastern Samar ang nasa ibaba nito:

'IKAW AY SINISIYASAT NGAYON DAHILAN SA PAGLABAG SA BATAS. KARAPATAN MO ANG HUWAG MAGSALITA. ANUMANG IYONG SASABIHIN AY MAARING GAMITING KATIBAYAN

LABAN SA IYO. AT IKAW AY MAY KARAPATAN SA TULONG AT SA PAGHARAP NG ABOGADO NA IYONG NAPIPISIL.'

"Sa kabila ng kabatiran PAQUITO YUPO ng mga nilalaman ng nasa itaas nito, siya ay nagbigay pa rin ng salaysay.

(SGD.) PAQUITO YUPO

"NILAGDAAN SA HARAP NINA:

(SGD.) CONRADO B. ROCA (SGD.) ROBERTO SALES"

In the light of these evidence, it is important to keep in mind that the pertinent constitutional provision ordains unequivocally that:

"Sec. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

It is thus emphasized that "any person under investigation for the commission of an offense" does not only have the right to remain silent and to have the assistance of counsel, he must in addition be informed of such rights. And it is my considered view that it is not enough that he be told he has those rights. To give meaning and substance to the manifest spirit and intent of the constitutional mandate, he must perforce be asked pointedly and unequivocally whether or not he wants to exercise them. Not every ordinary person, particularly the unschooled or one who is addressed in a language or dialect he does not sufficiently command, would readily comprehend to the extent intended by the fundamental law of the land the exact import of the bare information that he owns a right. To dispel any doubt, which is what I am certain the Constitution contemplates, and to best serve the ends of justice as it is understood by the common man, it is imperative that the investigator should go one step further, as I have just indicated. What would be lost doing it anyway? I may have a right and may be reminded thereof, but if in my inadequate circumstances of education and means of intelligent communication, and because of the obvious anxiety and apprehension usually felt by one under questioning about his possible participation in a criminal offense, I am not made clearly aware when and how I can avail of such right, of what use would such right and reminder be to me? In my humble opinion, it behooves every police investigator who conducts a custodial investigation to possess definite knowledge of the constitutional rights of all persons being subjected by him to any inquiry relative to the commission of any offense, and what is more, he must see to it that the person being interrogated by him is not only informed of such rights but that he is specifically asked in the language the latter adequately understands whether or not he desires to exercise them, and only when such person definitely, categorically and freely answers affirmatively may the investigator proceed to conduct his inquiry and take the statement of the person detained, with the implicit understanding yet that even such initial waiver is not definitely final, for the person under investigation may still invoke at his option the same rights at any further stage of the interrogation.

Justice Aquino makes reference in his dissent to the prevailing practice whereby the ruling on the admissibility of a confession or of any document, for that matter, is done at the closing of the evidence of the party offering the same. In point of fact, Justice Aquino is correct. But in view of the express adoption by our Constitution of the Miranda ruling thereby raising it to an unalterable constitutional status as distinguished from a mere jurisprudential dictamen, I would like to take this opportunity to suggest that trial fiscals and judges adopt special procedures that can best guarantee the enforcement of the constitutional rights to silence and to counsel of persons under custodial investigation. I have practiced the law profession long enough -- more than forty-three years, to be

exact -- to know that the present practice pointed out by Justice Aquino would not, I regret to say, carry out faithfully the full significance of the rights under discussion.

Let us not overlook that the last sentence of Section 20 of the Bill of Rights above-quoted commands in no uncertain terms that "any confession obtained in violation of this section shall be inadmissible in evidence." This provision characterizes in bold relief the sanctity of the rights enshrined in the provision. To my mind, as a matter of principle, this constitutional mandate has at least the effect of equating the violation thus mentioned with the infringement of the right of an accused prohibiting the use of illegally seized evidence against him. And in this connection, it will be recalled that the Moncado ruling^[1] which replaced *Uy Kheylin vs. Villareal*^[2] was itself reversed in *Stonehill vs. Diokno*^[3]. Thus, under the prevailing rule now, upon proper indication or suggestion by the accused that the evidence intended to be offered against him at the trial had been illegally seized from him, he is entitled to a preliminary hearing as to the legality of such seizure and the evidence may be presented only if the court is satisfied that it had been legally taken or seized. In fact, the proceeding in this regard may be held before the trial proper. Such being the case with evidence allegedly illegally seized, why may not a confession, which is evidence of the highest degree be not given the same if not more than deserved importance and properly accorded the same procedure?

In other words, I feel very strongly that with the new constitutional developments in criminal procedure I have pointed out, there must be corresponding innovations in our trial practices to give bone, flesh and sinew to the additional rights of persons under custodial investigation or accused mandated by the new provisions of the fundamental law of the land. Accordingly, it is my view that before any confession is ever marked or identified, upon timely objection of the accused, the court must first hold a separate proceeding solely for the purpose of satisfying itself that the same was taken with due regard to the constitutional rights of the accused discussed earlier in this opinion. The advantage of this procedure is that the court may not even see the incriminatory parts, if any, of the purported confession until after it is satisfied of the legality of its taking, hence any possible danger of the mind of the court being "poisoned" factually by illegal evidence, human as the judge is, is thereby eliminated, should the confession be denied entry into the records. But, of course, what has just been stated does not mean that failure to timely object at the stage just indicated already precludes the accused from questioning the legality of the confession at any other later stage of the proceeding.

I realize that practical considerations, – usually in the mind of over anxious and expeditiousness inclined, albeit possibly well intentioned, law enforcers – may be invoked to argue against the somewhat cumbersome procedure contemplated in this opinion. If practical considerations may indeed be sometimes of great or indispensable assistance in the prosecution of offenses specially because of the seriously deteriorating crime situation in the country, I can just say that the Constitution may not be assumed to have overlooked the imperatives of efficient crime prosecution and law enforcement when, in the interest of the more sacred rights of the people, for whom it speaks, it surrounded persons under custodial investigation or accused of criminal offenses with safeguards insuring, as much as it is humanly possible to do so, that no innocent person is placed in jeopardy of losing his life or liberty, without having had due opportunity to invoke them, and that even a guilty person is not railroaded to his deserved punishment, much less improvidently imposed a higher penalty than the law provides. Even the paramount need to defend the safety and security of the people in general and the community at large cannot justify less solicitousness founded on the inherent minimum standards for respect of basic human rights.

[1] *Moncado vs. Peoples Court*, 80 Phil. 1.

[2] 42 Phil. 886.

[3] L-19550, June 19, 1967, 20 SCRA 383.

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