

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
IBRAHIM TALUMPA, ET AL., DEFENDANTS. ABDULA TALUMPA,  
DEFENDANT AND APPELLANT.**

*G.R. No. L-15141. September 19, 1961*

Ponente: CONCEPCION, J.

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**CONCEPCION, J.:**

Appeal by Abdula Talumpa from a decision of the Court of First Instance of Zamboanga del Sur convicting him, and Saro Gandaribo, of the crime of robbery with homicide, and sentencing each to life imprisonment, to jointly and severally indemnify (1) the heirs of the deceased Chao Seng Yee, in the sum of P6,000. and (2) Hui Eng in the sum of P1,355.75, as well as to pay one-fourth (1/4) of the costs.

While waiting for a bus, in the national highway in Labangan, Zamboanga del Sur, on June 7, 1957, between 9:00 and 10:00 a.m., Chao Seng Yee, bill collector of a merchant by the name of Hui Eng, was shot several times by one of the members of a group of about four (4) men, who approached him (Chao Seng Yee). As Chao Seng Yee fell down mortally wounded, another member of the group snatched a paper bag he (Chao Seng Yee) held with one hand, containing part of the sum of P3,282 he had collected from several persons indebted to Hui Eng in Labangan and other municipalities.

Upon information secured by peace officers who repaired immediately to the scene of the occurrence, a complaint was filed with the justice of the peace court of the locality accusing Adam Baradzar, alias Dando Macalesay, Palot Maulana, Saro Moro and two John Does (unknown) of robbery with homicide. Upon apprehension, Palot Maulana admitted his participation in the commission of the crime and named Saro Gandaribo as the killer, Abdula Talumpa as the one who snatched from Chao Seng Yee the paper bag containing money, and policeman Ibrahim Talumpa as the instigator of the crime and owner of the gun used by Saro Gandaribo. Soon after his arrest, the latter made an affidavit confirming Palot's confession. Accordingly, an amended complaint, naming Ibrahim Talumpa, Saro Gandaribo, Abdula Talumpa and Palot Maulana as defendants, was filed. Inasmuch as Abdula Talumpa was still at large, the justice of the peace proceeded with the preliminary investigation as regards the other accused. In the course of said proceeding, Saro Gandaribo pleaded guilty to the charge, whereas Palot Maulana and Ibrahim Talumpa, waived their right to said investigation. The record of the case was, therefore, forwarded to the Court of First Instance of Zamboanga del Sur, where the provincial fiscal filed the corresponding information, for robbery with homicide, against Ibrahim Talumpa, Abdula Talumpa, Palot Maulana and Saro Gandaribo. Meanwhile, Abdula Talumpa had been arrested in Opi, Cotabato. Subsequently, Palot Maulana was, on motion of the prosecution, discharged to be used as state witness. In due course, thereafter, said court rendered decision, absolving Ibrahim Talumpa, and convicting Saro Gandaribo and Abdula Talumpa, as above stated. Hence this appeal by Abdula Talumpa, who maintains that the evidence of record does not suffice to justify either his conviction or the conclusion that the bag snatched from Chao Seng Yee contained P1,355.75.

With respect to the first question, Palot Maulana testified that, early in the morning of June 7, 1957, he went to the

store of one Gaindal Kamal, in Labangan, Zamboanga del Sur, to buy cigarettes. While he was in said store, Ibrahim Talumpa tried to persuade him to kill a Chinese, who allegedly had plenty of money. Palot turned down the proposal, whereupon Ibrahim Talumpa proceeded to the store of one Agapito, not far away from the scene of the occurrence. Palot followed Ibrahim, at some distance away, and noticed that Saro Gandaribo and Abdula Talumpa were, also, in Agapito's store. Ibrahim, Saro and Abdula talked about killing the aforementioned Chinese, and, after a while, Ibrahim delivered his gun to Saro, in Abdula's presence. Later on, Saro and Abdula proceeded to the place where Chao Seng Yee was waiting for a bus, holding a paper bag, whereas Ibrahim remained in said store of Agapito. Approaching the Chinese, Saro and Abdula said a few words to Chao Seng Yee, and then Saro fired at him five (5) times. As Chao Seng Yee fell down, Abdula grabbed the paper bag, and ran away. Saro, in turn, proceeded to a place nearby, where there was an artesian well, and handed the pistol back to Ibrahim.

Palot Maulana was substantially corroborated by Bonifacio Labora, who said that, while on his way home near the scene of the occurrence, on June 7, 1957, a little after 9:00 a.m., he heard gun shots; that looking towards the place from which the shots had come, he saw Saro firing at a man in front of him; and that when the man fell down, Abdula snatched a bag from him and then ran towards the bushes.

Upon the other hand, appellant's theory is that he could not have participated in the commission of the crime charged for, on June 7, 1957, he was working on the land of Kagi Ismael, from 6:30 to 11:30 a.m.; that he heard about the occurrence when he was taking his meal, that noon, in Ismael's house; and that, several days later, he went to Opi, Cotabato, to visit his ailing father. Appellant introduced, also, by way of corroboration, the testimony of Kagi Ismael and that of his neighbor Ambalangan Mismo. Appellant would, also, have us believe that Bonifacio Labora must have implicated him out of spite, because he (appellant) wanted to slap him (Labora) once for causing trouble in a game of "hantak" and, on another occasion, suspected him (Labora) as one of those who had stolen certain carabaos.

This alleged desire to slap and suspicion of Abdula Talumpa were, however, subjective factors that Labora had no means of knowing, unless communicated to him by Abdula, and there is no evidence that the latter had done so. In any event they are not sufficient to induce Labora to falsely impute to Abdula the commission of a crime as serious as the one charge in this case. Then, too, considering that the land of Kagi Ismael had an area of about one (1) hectare only, we cannot believe that it took nine (9) days—from June 3 to June 11, inclusive—for Abdula to plow it, as testified to by Kagi. Needless to say, appellant's trip to Opi, Cotabato, soon after the occurrence, for the avowed purpose of visiting his father, whose alleged illness has been neither specified nor satisfactorily proved, bears all the earmarks of a flight.

In the light of the foregoing circumstances, and considering not only that the issue boils down to one of credibility of the testimony of the opposing witnesses, but, also, that His Honor, the trial Judge, was in a position to observe their behaviour during the trial, and had carefully noted and weighed in the decision appealed from the pros and cons of said testimony, we do not deem it warranted to overrule the lower court, which found the witnesses for the prosecution more deserving of credence than those of the defense.

As regards the amount contained in the paper bag snatched by Abdula from Chao Seng Yee, it has been sufficiently established that the latter had collected from several customers of Hui Eng the aggregate sum of P3,283 and that when his dead body was examined immediately after the occurrence, the authorities found on his person the sum of P1,927.25. There being no evidence that he disposed of any portion of his collection, the lower court did not err in concluding that the missing sum or P1,355.75, must have been contained in the aforementioned paper bag.

Being in accordance with the facts and the law, the decision appealed from, is, accordingly, affirmed, with costs against appellant, Abdula Talumpa. It is so ordered.

Bengzon, C.J., Padilla, Labrador, Reyes, J.B.L., Barrera, Paredes, De Leon, and Natividad, JJ., concur.  
Bautista Angelo, J., on leave.

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