

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LORENZO JARAVATA @ ENSO, ET AL., DEFENDANTS-APPELLANTS.***G.R. No. L-22029. August 15, 1967*

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/bb915933681d/>**BENGZON, J.P., J.:**

Aurelio Flores, a truck driver of Carried Lumber Co., Dagupan City, was shot to death on December 23, 1958 in-side its compound. Assailant and his companions fled. A complaint for the murder of Flores was filed on January 31, 1959 in the Dagupan City Municipal Court against Cle-mente Dadoya and two others unknown. Subsequently, this was amended to charge the following: (1) Lorenzo Jarava-ta; (2) Clemente Dadoya; (3) Raymundo Muñoz; (4) Gregorio Muñoz; (5) Segundo Santos; and (6) Rafael Fernandez.

Raymundo Muñoz, in April of 1959, surrendered to the Philippine Constabulary. On April 23, 1959, he signed an affidavit (Exh. K) before the Philippine Constabulary ad-mitting participation in the Flores killing and implicat-ing his co-accused, thus: Lorenzo Jaravata as the master-mind; Clemente Dadoya as the contactman; Gregorio Muñoz as the executioner; Segundo Santos as Jaravata's body-guard who taught Gregorio Muñoz how to use the gun; and Rafael Fernandez as the one who gave him (Raymundo Muñoz) a knife.

An information for the same offense was filed on June 2, 1959 in the Court of First Instance of Pangasi-nan against the six accused aforementioned. Raymundo Muñoz was later discharged to be a State witness.

After trial - the remaining accused having pleaded not guilty - the Court of First Instance on April 26, 1963 rendered a judgment of conviction, sentencing all the five accused to reclusion perpetua, to jointly and severally indemnify the heirs of the deceased in the amount of P6,000.00 and to pay the costs.

The defendants appealed. Subsequently, however, Dadoya and Gregorio Muñoz moved for withdrawal of their ap-peals; We granted said motions on January 22, 1965 and November 3, 1966, respectively. This left Lorenzo Jara-vata, Segundo Santos and Rafael Fernandez as the only appellants.

Raised by the appeal are chiefly two issues: First, did the court a quo err in giving credence to State wit-ness Raymundo Muñoz' testimony? Second, is the penalty to be alike for all if found guilty?

State witness Raymundo Muñoz testified that on December 16, 1958, Clemente Dadoya contacted him in his house at Quitakit and brought him to Lorenzo Jaravata. At Jaravata's house, in Dagupan City, in the presence of Clemente Dadoya, Segundo Santos and Rafael Fernandez, Jaravata asked him to kill Aurelio Flores, offering him a P150.00-a-month job and additional money. Flores, Jara-vata said, was making trouble with the union Jaravata headed. Raymundo's reply was that he would try. Jara-vata gave a .45-cal. pistol to Dadoya for Raymundo Muñoz to use; and he told them that one Francisco Balolong would point Flores out to them.

Raymundo Muñoz, accompanied by Dadoya, went to the Carried Lumber Co. compound that night and on two other times; they did not find Flores; on said occasions, Ray-mundo slept in Jaravata's house.

About a week later, on December 22, 1958, Dadoya again fetched him from his house; on their way to Dagupan City, they met Raymundo's grandson, Gregorio Muñoz. Da-doya proposed the same thing to Gregorio, who came along and promised to try.

At Dagupan City, they went to Jaravata's place. Jaravata made the same proposal to Gregorio Muñoz. Santos and Fernandez, who were again present, urged him to accept. Finally Gregorio Muñoz said he will try. It was then agreed that Gregorio Muñoz would use Jaravata's .45-cal. pistol. Because Gregorio Muñoz said that he did not know how to use the pistol, Segundo Santos undertook the task of teaching Gregorio how to use it upon orders of Jaravata. Francisco Balolong was again mentioned as the one who would point out Flores. That night, they slept in Jaravata's place.

The next day, December 23, 1958, at about seven in the evening, Dadoya, Gregorio Muñoz and he (Raymundo Muñoz) went to Carried Lumber Co. compound to kill Flores. Dadoya had a knife; he, too, had a knife, given to him for this purpose by Rafael Fernandez; and Gregorio had the .45-cal. pistol.

They posted themselves behind a pile of logs inside the compound. Francisco Balolong approached them and told them that Flores had passed by and was near the gate; Flores, after talking to one Ben Puga, came around again and passed by them. Gregorio immediately followed him. Noticing this, Flores turned around, at about five meters away from Gregorio. As he did so, Gregorio shot him twice. Flores fell; Gregorio shot him five times more. All three of them fled. Gregorio handed the gun to Dadoya who threw it to a canal.

Some time afterwards, he asked Jaravata for money but the latter said he could not give him yet, as he (Jaravata) was being investigated. Dadoya later gave Raymundo P95 of which he kept P25 and gave P70 to Gregorio. On April 14, 1959 he surrendered to the Philippine Constabulary at Camp Crame and there later he executed his affidavit.

Prosecution witness Francisco Balolong, a crane operator of Carried Lumber Co., testified that three weeks before December 23, 1959, he was in Jaravata's house; that there, in the presence of Segundo Santos, Jaravata told him of his plan to kill Flores for the reason that Flores was making trouble in the union, and that Flores and Puga had attempted to kill him.

A week later, on December 16, 1958, at about seven in the evening - said witness further testified - he saw Da-doya, Segundo Santos and Raymundo Muñoz in the Carried Lumber; he saw Santos give Raymundo a gun and a knife and heard him caution Raymundo to be careful in shooting Flores.

And - continued Balolong - on December 23, 1958 at six in the evening, Santos was in the Carried Lumber; Santos told him that the person to kill Flores was already in Jaravata's house. At seven that evening, he saw Dadoya, Raymundo and Gregorio Muñoz hidden behind a pile of logs in the Carried Lumber premises; he asked them what they were doing and they said they were waiting for somebody. Dadoya later pointed out Flores to Gregorio and the latter shot Flores, twice, then several times more. Balolong denied that he was the one who pointed Flores out.

Also testifying for the prosecution, the deceased's wife, Elvira Flores, stated that in the evenings of December 18 and 20, 1958, she saw two persons roaming around the lot of Carried Lumber Co., for about five hours, watching, near a pile of logs, their house. She told her husband about it and he in turn reported the same to a company security guard. She identified Dadoya as one of the men. She could not remember the other.

The prosecution also presented Assistant Chief of Police Victor Arenas of Dagupan and Fiscal Jose Alvero to show that on March 5, 1959, Gregorio Muñoz, then detained in jail, verbally confessed regarding Jaravata's proposal, Santos' teaching him to use the gun to kill Flores, and Fernandez' giving Raymundo a knife for the

mission; but that later, on advice of counsel, he refused to sign the written confession.

Against the above testimonies, Dadoya denied the accusation against him, claiming that he was at home from December 15-23, 1958 and did not go out because his wife gave birth at the end of November. Similarly, Gregorio Muñoz denied participation in the killing. Also, he denied his alleged verbal confession and said denial was supported by his uncle and his lawyer, present during the incident of his investigation.

Appellant Lorenzo Jaravata in his testimony stated that he had no grievance with the deceased Flores; that it was one Simeon Sarmiento, not Flores, who caused him to be investigated for alleged illegal disbursement of union funds. Flores, however, Jaravata further said, was the leader in maltreating some people; that Ben Puga, Flores' bodyguard, stabbed one Arbolante. As to Santos and Fernandez, Jaravata admits knowing them; he also knows the witness Balolong; but he denies that he knows Dadoya; he further admits that he filed a criminal case against Flores and Puga because Puga hit him with a piece of wood. Accused Jaravata, however, denied all testimonies linking him to the killing of Flores.

Segundo Santos admitted he knows Jaravata; claimed that Jaravata's brother, Cornelio, is his employer; denies that he was present in the alleged plot to kill Flores; and denies that he taught Gregorio Muñoz to use the gun.

Rafael Fernandez also denied complicity in the alleged plan to kill Flores; said he knows Santos but not Jaravata nor Balolong nor Gregorio nor Raymundo Muñoz.

The defendants merely denied the accusations. They could not explain why Raymundo Muñoz would implicate them and accuse them of Flores' murder and testify against them. The trial court found Raymundo's testimony credible. No reason to disturb its finding has been shown. Credibility of witnesses is best determined by the trial judge (People v. Evaristo, L-14520, February 26, 1965; People v. Lumayag, L-19142, March 31, 1965).

Raymundo Muñoz' testimony is moreover corroborated by Francisco Balolong and Elvira Flores. Furthermore, Jaravata's ill-feelings towards Flores is shown by the fact that Flores sided with Sarmiento in his union dispute against Jaravata and the fact that Jaravata filed a criminal case against Flores and Puga.

As regards the penalty, the proof of conspiracy is beyond reasonable doubt; Jaravata was the mastermind of the plan; Segundo Santos, always present when the plot was discussed, trained and instructed Gregorio, the trigger-man, on how to use the gun; and Rafael Fernandez, twice present during the plot's formulation, gave Raymundo Santos a knife for the purpose of their mission to kill Flores. Accordingly, all of them are liable as principals.

Now, treachery attended the commission of the offense, absorbing nighttime; for the assailants hid behind a pile of logs under cover of darkness; the victim was approached from behind and shot as he turned around. Furthermore, there was evident premeditation, since the accused repeatedly plotted the commission of the offense over a period of several weeks and, on at least two occasions, made preliminary efforts to carry it out. These aggravating circumstances, treachery and evident premeditation, are alleged in the information and thus, either one suffices to qualify the offense to murder; and there being no mitigating circumstance, the remaining aggravating circumstance should have put the penalty in its maximum period, namely, death. For lack of the requisite number of votes, however, the penalty of reclusion perpetua is imposed, together with the indemnity of P6,000.00 for the heirs of the deceased and costs imposed below.

WHEREFORE, the judgment appealed from is hereby affirmed. Costs against appellants.

SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave.

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