

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO REYES, ET AL., DEFENDANTS, RICARDO MAMON ALIAS
“CADONG”; DEFENDANT-APPELLANT.**

G.R. No. L-30668. July 21, 1978

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

MANDATORY REVIEW of the judgment of the Court of First Instance of Iloilo finding the accused Ricardo Mamon alias "Cadong" guilty of the crime of Murder and sentencing him to suffer the penalty of death; to indemnify jointly and severally, with his co-accused Rodolfo Reyes alias "Dolfo", the heirs of the deceased in the amount of P12,000.00; and to pay proportionate part of the costs.

At about 3:00 o'clock in the afternoon of July 11, 1968, the late Ruperto Advincula, Judge of the Municipal Court of Dumarao, Capiz, boarded a north-bound motor train for Capiz at the railway station at La Paz, Iloilo City, and occupied the first seat, to the right, on the first coach, immediately behind the engine. Two men also boarded the same train at the La Paz station at about the same time and one of them occupied the second seat across the aisle, to the left of Judge Advincula while the other sat behind his companion about two seats back. Only about one-third of the seats were occupied.

As the train was pulling out of the flag station at Barrio Camoncil, Pototan, Iloilo, the man seated across Judge Advincula stood up and signalled his companion and then pulled out his gun and shot Judge Advincula point-blank. The companion of the killer also stood up and drew his gun, and both of them then jumped off the train which was gathering speed, and ran away.

When the motor train arrived at the railroad station at Pototan, Iloilo, the body of Judge Advincula was removed and brought back to Iloilo City on board another train. The body was autopsied and the medico-legal necropsy report showed that Judge Ruperto Advincula sustained a gunshot wound on the forehead, between the eyes.[1]

Investigators theorized that Judge Advincula was sleeping when he was shot because he did not offer any kind of resistance. The investigations finally revealed that the crime was committed by Rodolfo Reyes, Ricardo Mamon, and two unidentified persons. Consequently, a criminal complaint charging Rodolfo Reyes, Ricardo Mamon, and two John Does with the murder of Judge Advincula was filed before the Municipal Court of Pototan, Iloilo.[2] Through informants, it was learned that Rodolfo Reyes was in Las Piñas, Rizal. So, a team of NBI officers was sent to arrest Rodolfo Reyes. In the course of his interrogation, Rodolfo Reyes admitted his participation in the slaying of Judge Advincula. He pointed to Ricardo Mamon as the triggerman.[3] Ricardo Mamon, however, remained at large. A combined PC-NBI team scouring the island of Panay and the province of Negros Occidental failed to find and arrest him.[4] It was only in the morning of November 30, 1968 when the police investigators learned that Ricardo Mamon was in the Provincial Jail of Iloilo, having allegedly just surrendered.[5]

When questioned, Ricardo Mamon confessed to having shot and killed Judge Advincula on board the north-bound train in the afternoon of July 11, 1968, saying that the killing was done pursuant to an agreement between him and

one Federico Baylon, from Barrio Bariga, Banate, Iloilo, who promised to pay him the amount of P1,500.00 but only paid him the amount of P1,000.00 for the killing of Judge Advincula. He also traced his movements after the killing in order to evade arrest.[6]

Accordingly, an information was filed before the Court of First Instance of Iloilo on February 19, 1969, charging Rodolfo Reyes alias "Dolfo" and Ricardo Mamon alias "Cadong" with the crime of murder committed as follows:

"That on or about July 11, 1968, in the Municipality of Pototan, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, conspiring, confederating and helping one another with JOHN DOE and RICHARD DOE, who are still at large, armed with firearms, with deliberate intent, taking advantage of their superior strength to better realize their purpose, with treachery, evident premeditation, in consideration of a price, and a decided purpose to kill, did then and there willfully, unlawfully and feloniously assault, attack and shoot JUDGE RUPERTO ADVINCULA, thereby hitting and inflicting on his head a gunshot wound, which caused his death immediately thereafter."[7]

The court set the arraignment of the accused on March 8, 1969.[8] On the scheduled day of the arraignment, however, counsel de oficio moved for its postponement in order to allow him time to contact "the parents of the accused and apprise them of the plea they may enter in the case." The court granted the motion and reset the arraignment for March 14, 1969.[9]

On March 14, 1969, the accused, assisted by their counsel, were arraigned and both pleaded "Not Guilty." [10] Hence, the court set the case for trial on March 27 and 28, 1969.[11]

At the scheduled trial, counsel de oficio for the accused Ricardo Mamon informed the court that the said accused desired to withdraw his plea of "not guilty" and to substitute it with a plea of "guilty" to the crime charged in the information. Whereupon, the court ordered the accused to be re-arraigned, after which the accused Ricardo Mamon pleaded "guilty". Counsel for the said accused also manifested that he would prove the mitigating circumstance of voluntary surrender. So, the court set the reception of the evidence on April 7, 1969. Counsel de parte for the accused Rodolfo Reyes, upon the other hand, declared that he was not yet ready for trial because his services had just been contracted by the said accused. In view thereof, the court also reset the trial of the case to April 7, 1969.[12]

On April 7, 1969, counsel for the accused Ricardo Mamon reminded the court that the said accused had already entered a plea of guilty and manifested to the court his readiness to prove the mitigating circumstance of voluntary surrender. The following is what transpired in the court below:

"ATTY. JILOCA:

Your Honor, the last time this case was called for trial, the accused Ricardo Mamon pleaded 'guilty' to the crime charged in the information and we manifested to this Honorable Court that we be given time to prove this surrender and we have sufficient evidence to prove that the accused Ricardo Mamon voluntarily surrendered.

"COURT:

Prove your mitigating circumstance."[13]

As directed, counsel for the accused Ricardo Mamon called to the stand Rafael Palmares, incumbent governor of Iloilo; Fortunato Padilla, member of the Iloilo Provincial Board; and Jose Perlas, Jr., Warden of the Iloilo Provincial Jail. The gist of their testimony is that Ricardo Mamon, through his relatives, sought the intercession of Fortunato Padilla to effect his surrender to the governor of Iloilo; that Fortunato Padilla, in turn, went to the governor, as requested; that the said accused had imposed certain conditions for his surrender; that the accused finally yielded to Fortunato Padilla in the morning of November 30, 1968; and that Fortunato Padilla, upon learning that Gov. Palmares was in Manila, brought the said accused to the Iloilo Provincial Jail, where the Warden, entered on his Blotter that: "At about 8:30 A.M. Ricardo Mamon surrendered voluntarily to the Provincial Governor, thru the Provincial Warden."[14]

NBI Agent Federico Opinion, leader of the NBI investigating team, took the stand to belie the claim of voluntary surrender and recounted the efforts and expenses incurred by them in the solution of the crime and the apprehension of the suspected killers.

On May 2, 1969, the accused Rodolfo Reyes, through counsel, moved to withdraw his plea of "not guilty" and to substitute it with a plea of "guilty". The said accused was thus re-arraigned and thereafter pleaded guilty.[15] Counsel invoked the mitigating circumstances of plea of guilty and voluntary surrender. The Fiscal did not object to the circumstance of plea of guilty, but as to the claim of voluntary surrender, he manifested that "he had no evidence to counteract whether the said accused voluntarily surrendered or not."[16]

On June 6, 1969, judgment was rendered finding the accused guilty of the crime of murder and sentencing the accused Ricardo Mamon alias "Cadong" to suffer the penalty of death and the accused Rodolfo Reyes alias "Dolfo" to suffer the penalty of reclusion perpetua; ordering the said accused to indemnify, jointly and severally, the heirs of the deceased in the amount of P12,000.00; and to pay proportional costs.

The accused Rodolfo Reyes did not appeal from the said judgment and the case is now before the Court on automatic review because of the death penalty imposed upon the accused Ricardo Mamon alias "Cadong."

Counsel de oficio points to the alleged hasty and improvident acceptance by the trial court of the plea of guilty entered by the accused Ricardo Mamon without taking pains to insure that the said accused knew the import and consequence of such act and suggests the remand of the case to the court below for the proper observance of constitutional due process.

In the case of *People vs. Apduhan*,[17] the Court enjoined trial judges to "refrain from accepting with alacrity an accused's plea of guilty, for while justice demands a speedy administration, judges are duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of an inevitable conviction."

The circumstances obtaining in this case leave no doubt that the accused Ricardo Mamon alias "Cadong" knew the meaning and consequences of his act in pleading guilty to the crime charged in the information. The records indubitably show that the said accused had already considered entering a plea of guilty in this case even before he was taken into custody and formally arraigned in court. Thus, it should be noted that the criminal complaint for murder filed against him with the Municipal Court of Pototan, Iloilo, on October 2, 1968, alleges the qualifying circumstances of evident premeditation and that the crime was committed in consideration of a price, and the aggravating circumstances of treachery and abuse of superior strength. Inasmuch as the aggravating circumstance of treachery absorbed abuse of superior strength, and of the remaining three, one aggravating circumstance qualified the crime to murder, it results that two aggravating circumstances would remain. The penalty likely to be

imposed upon him in the event of conviction would be the maximum penalty, or death. Thus, Ricardo Mamon, who, by then, had apparently consulted an attorney, thought of means to minimize the penalty. The surrender of the accused and his entering a plea of guilty after withdrawing a prior plea of not guilty were accordingly taken into consideration in order to offset the two aggravating circumstances and thus avoid of the imposition of the death penalty. Subsequently, and as preconceived, Ricardo Mamon gave himself up and then entered a plea of guilty to the charge upon arraignment. The testimony of Rafael Palmares, then Provincial Governor of Iloilo, recalling the events leading to the surrender of the accused Ricardo Mamon and the governor's participation therein, is most persuasive. He testified:

"* * * But about the first week of November, 1968, Board Member Padilla came to see me and informed me that the Vice-Mayor of Cabatuan Leodegario Cuarte together with the sister-in-law of Ricardo Mamon would like to confer with me regarding the surrender of Ricardo Mamon and so I said 'you can bring them in the office' and in the office we conferred with Board Member Padilla, Vice-Mayor Cuarte and the sister-in-law of Ricardo Mamon and the sister-in-law of Ricardo Mamon told me that Ricardo Mamon is willing to surrender - that she was sent by Ricardo Mamon to contact me because he want to surrender to me but he wanted to know if I could guarantee the conditions he was asking from me for instance which are: 'I want to surrender to the governor provided that he will assure me that no physical injuries will be inflicted in my person and that I will not be confined at the P.C. Headquarters, and that I will be treated with a little leniency and if it be possible that I will be given a lighter penalty' and I assured the sister-in-law that as long as Ricardo Mamon is surrendering to me, he will be lodged in the Provincial Jail and I will see to it that he will be accompanied by a member of the Provincial Guard to see to it that no physical injuries will be inflicted to him and whether he can be availed of himself of counsel in Court which I told the sister-in-law of the accused that he will be provided by counsel because it is the constitutional rights of the accused under our laws to be given a counsel during the trial and if he has no counsel the Court can give him one and I told her that if Mamon voluntarily surrenders, there is a good chance that his penalty will be lessened because being a lawyer myself I told them that if the Court will accept the mitigating circumstance as voluntary surrender and the plea of guilty, the penalty will be lesser. Of course, I did not guarantee that that will be the kind of penalty to be imposed but I said he have a good chance in Court and after that the surrender was set for about fifteen (15) days and after that a day was set that is November 30 I was in Manila at that time but I hurried up to be here. * * *".[18] (Italics ours)

The governor's testimony is confirmed by Fortunato Padilla, then member of the Iloilo Provincial Board, whose intercession was sought in the surrender proceedings. He declared:

"A What they asked if the governor can possibly provide him with a lawyer but the governor said whether he likes it or not, he will be given a lawyer anyhow and about a little bit of leniency, the governor said that inasmuch as he is surrendering he will get a lighter penalty. One more thing that whether if upon his surrender he will plead guilty, I remember the governor asked that and they said 'yes, he will plead guilty upon his surrender.' "[19] (Italics ours)

Besides, the accused was ably assisted by counsel during the proceedings so that the court no longer needed to warn the accused of the seriousness and consequences of the plea. It is counsel's duty to warn the accused about the consequences of pleading guilty and the presumption is that said counsel regularly and faithfully discharged his official functions.[20]

The foregoing circumstances, as well as humane reasons aimed at promoting justice, preclude the return of the case to the court below for the re-arraignment of the accused as suggested by counsel de oficio.

Counsel de oficio also assails the trial court for not considering the voluntary surrender of the accused as a

mitigating circumstance in the case.

For the mitigating circumstance of voluntary surrender to be appreciated, the same must be spontaneous in such a manner that it shows the interest of the accused to surrender unconditionally to the authorities, either because he acknowledges his guilt or because he wishes to save them the trouble and expenses necessarily incurred in his search and capture.[21]

The circumstances attending the surrender of the accused Ricardo Mamon do not meet this criterion for the record is clear that the said accused immediately fled and went into hiding which necessitated the authorities to search for him in the island of Panay and in the mountainous regions of Negros Occidental. In fact a combined PC-NBI team failed to capture the accused and it was only after the lapse of more than four (4) months when the accused negotiated with the governor of Iloilo for his surrender.

Moreover, the surrender was made upon certain conditions. As Governor Rafael Palmares and Board Member Fortunato Padilla stated in their testimony, the accused manifested his desire to surrender provided that: (a) the governor gives his assurance that no physical injuries will be inflicted upon his (Mamon's) person; (b) he will not be confined at the P.C. Headquarters; (c) he will be treated with a little leniency; and (d) he will be given a lighter penalty, if possible. The surrender of the accused is obviously motivated more by his intention to insure his safety than to save the authorities the effort and expenses necessary for his arrest and apprehension. The perils of a fugitive must have compelled him to give up after hiding had become hazardous and his arrest inevitable.

It results that the trial court did not err in finding the accused guilty of the crime of murder. However, for lack of the necessary votes to sustain the imposition of the death penalty upon the accused, the penalty is hereby reduced to reclusion perpetua.

MODIFIED as above indicated, the decision of the lower court is hereby affirmed in all other respects, with costs de oficio.

SO ORDERED.

Castro, C.J., Teehankee, Barredo, Makasiar, Muñoz Palma, Aquino, Santos, Fernandez, and Guerrero, JJ., concur.

Fernando, J., in the result.

Antonio, J., did not take part.

[1] Original Record, p. 9; also Exh. I-E, p. 10, Orig. Rec.

[2] Exhibit B, p. 2, Orig. Rec.

[3] pp. 4-8, Orig. Rec.; also pp. 47-49, t.s.n.

[4] p. 51, t.s.n.

[5] Orig. Rec., pp. 22, 23; also p. 52, t.s.n.

[6] Exhibit H-1, p. 123, Orig. Rec.

[7] Original Record, p. 36.

[8] Id., p. 37.

[9] Id., p. 41.

- [10] Id., p. 43.
- [11] Id., p. 45.
- [12] Id., p. 57.
- [13] t.s.n., p. 2.
- [14] Exh. 2, p. 66, Orig. Rec.
- [15] Orig. Rec., p. 106.
- [16] Decision, pp. 5, 6.
- [17] G.R. No. L-19491, August 30, 1968, 24 SCRA 798.
- [18] t.s.n., pp. 4-7.
- [19] Id., pp. 22-23.
- [20] People vs. Abejero, L-13470, March 27, 1961, 1 SCRA 804.
- [21] People vs. Gervacio, L-21965, August 30, 1968, 24 SCRA 960, citing People vs. Sakam, 61 Phil. 27.

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