

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONISIO MACARAEG AND FELIX MACARAEG
DEFENDANTS-APPELLANTS.***G.R. No. L-32806. October 23, 1973*

Ponente: FERNANDO, J.

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It is not difficult to locate in the annals of judicial decisions instances of offenses presumably arising from family feuds, whether justified or not. The closely-knit ties that bind Filipino kinsmen may result in retaliatory action being taken against members of the opposite clan. This case appears to be one of them. One of the victims gunned down belonged to the Nevado family,[1] with the two indicted for murder being the brothers Macaraeg.[2] After trial duly had, the lower court then presided by the late Judge, later Court of Appeals Justice, Eloy Bello, in a decision noteworthy for its clarity and thoroughness, adjudged them guilty, the penalty imposed being two life sentences as well as joint and several liability in the sum of P12,000.00 for each of the two offenses committed. On appeal to this Court, their counsel, Jose W. Diokno,[3] justifiably wary of relying solely on the contention that the lower court ought not to have given credence to the version of the prosecution, considering the settled state of the law on the question of appreciation of evidence, would seek to blunt its full force and effect by invoking the principle that if the testimony of the prosecution were discredited, even on the assumption that the defense of alibi was not too persuasive, there is absent that quantum of proof beyond reasonable doubt, thus bringing into play the constitutional right to be presumed innocent.[4] Acquittal is therefore sought on that ground. The approach taken as well as the painstaking care evident in the brief submitted, has led us to peruse much more meticulously the evidence of record. After doing so, we find ourselves unable to reverse the decision of the lower court, the guilt of appellants having been shown beyond reasonable doubt.

From the facts as testified to by the prosecution, the time of the grim tragedy was at about eleven in the morning of November 20, 1969, the place, a road in Barrio Apaya, Malasiqui, Pangasinan, and the victims, Santiago Nevado and Filomeno Paragna, who, while on a jeep, owned and driven by the former, were fired at by the accused brothers, Dionisio and Felix Macaraeg, using carbines, the exact spot of this fatal shooting being in front of the compound belonging to still another brother, Alfredo Macaraeg, where the houses of the defendants were erected.[5] Santiago Nevado repeatedly hit, his riddled body showing eleven gunshot wounds, had no chance for survival. He died then and there. His companion, Filomeno Paragna, although likewise not spared from such fusillade, was able to jump out of the vehicle and to run towards the ricefield south of the road, but was pursued by Dionisio Macaraeg who fired at him several times until he fell.[6] His brother, Felix, approached the prostrate Santiago Nevado lying on his back, turned his body around face upwards, and fired at it several times.[7] The medical reports made mention of the eleven gunshot wounds of the late Santiago Nevado[8] and the five wounds inflicted on the late Filomeno Paragna, who died at the Pangasinan General Hospital on November 23, 1969 at 11:50 p.m.[9] The latter was able to execute an ante-mortem statement wherein he stated that they were ambushed by two men armed with carbines but that he was unable to recognize them.[10] Another witness for the

prosecution, a certain Anoy Terroza, testified that at such time, he was in a ricefield in Barrio Apaya, Malasiqui, Pangasinan, heard the shots, and saw appellants Dionisio Macaraeg and Felix Macaraeg walking rapidly.[11] Further, he stated that when he went towards the direction where the shots came from, he met the two accused, who warned him: "Do not reveal to anybody or to your father that we killed your uncle Santiago Nevado or else if you reveal we will go to your house and we will liquidate you." [12] There was likewise testimony from Antolin Nevado to the effect that before December, 1969, he with his brother Segundo, together with the two accused Dionisio Macaraeg and Felix Macaraeg and their brother Benigno Macaraeg who at the time was the Barrio Captain of Apaya, Malasiqui, Pangasinan, were invited by retired General Francisco Joves, also from Malasiqui, to a conference to settle their differences. In that meeting, according to him, there was an admission by both accused that they killed Santiago Nevado in order to avenge the death of their brother Alfredo Macaraeg.[13] There was a declaration from the widow of the deceased Nevado that on November 11, 1969, at about 5:00 o'clock in the afternoon, the two accused, under the influence of liquor, did go to her market stall and told her that they were looking for her husband in order to kill him[14] as it was he who instigated the killing of their brother Alfredo Macaraeg.[15]

On the basis of the above evidence for the prosecution the lower court rendered the judgment of conviction, finding "the accused, Dionisio Macaraeg and Felix Macaraeg, guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248 of the Revised Penal Code on two counts and hereby [sentencing] each of them to suffer the penalty of reclusion perpetua for the death of Santiago Nevado, another penalty of reclusion perpetua for the death of Filomeno Paragna, the two penalties to be served one after the other; to pay jointly and severally the sum of P12,000.00 to the heirs of Santiago Nevado; to jointly and severally pay to the heirs of the deceased, Filomeno Paragna, another sum of P12,000.00; and to pay the costs." [16] Hence the appeal to us. The errors assigned consist of the allegations that the version of the prosecution lacked credibility, that the defense of alibi, which the lower court did not believe, was meritorious, and that the guilt of the accused was not shown therefore beyond reasonable doubt. They all add up to the decisive issue raised, as noted at the outset, of whether there was a failure to overcome the constitutional presumption of innocence. It could be, as already intimated, that in taking such a position, counsel for the accused fully realizing that the appreciation of evidence is on the whole left to the lower court, whose appraisal is entitled to great respect, and the defense of alibi, as shown by a long line of our decisions, not sufficiently impressed with any degree of persuasiveness,[17] deemed best to concentrate on the alleged failure of the prosecution to meet the requirement of proof beyond reasonable doubt. If it were so, it would follow that the accused would be covered by the above constitutional safeguard. With due recognition of the vigor and ability with which such point was pressed, we find ourselves, for reasons now to be discussed, unable to agree. We affirm.

- In essence what is contended for by counsel is that the constitutional right to be presumed innocent is not to be nullified by the application of the well-settled doctrine that matters of credibility are for the lower court to decide in the absence of a fact or circumstance which has been overlooked or the significance of which has been misinterpreted.[18] Such a principle may without inaccuracy be looked upon likewise as a presumption, one moreover borne out by experience. It is easy to discern that a trial judge is better situated than an appellate court in the appraisal of the testimony offered. The witnesses are there before him. He hears them testify; he observes their demeanor. He can sense the tell-tale signs of prevarication. It is not too difficult for him to distinguish between honest mistakes and deliberate fabrications. Thus a judge, especially one who has had years on the bench and with the training and habitude in the art, may be trusted to sift the false from the true. It is not likely that he can be easily taken in by the adroitness and skill of counsel or the well rehearsed performance of the individual on the stand. Nonetheless, such a doctrine certainly cannot rise above the constitutional presumption of innocence which can only be overcome if the proof of guilt is beyond reasonable doubt. A doctrine of this Tribunal, however well-grounded in our past decisions, cannot prevail as against a mandate of the Constitution. In that sense, it is understandable why counsel for the accused would invoke such

a right. In a 1968 decision, *People v. Alto*,^[19] this Court, through Justice Castro, categorically affirmed: "As a salutary proposition, this Court usually desists from disturbing the conclusions of the trial court on the credibility of witnesses, in deference to the rule that the lower court, having seen and heard the witnesses and observed their demeanor and manner of testifying, is in a better position to appreciate the evidence. But this doctrine must bow to the superior and immutable rule that the guilt of the accused must be proved beyond a reasonable doubt, because the law presumes that a defendant is innocent, and this presumption must prevail unless overturned by competent and credible proof."^[20] Subsequently, in *People v. Pagkaliwagan*,^[21] there was a reiteration of such a view as shown by this excerpt from the opinion of Justice Teehankee: "And while the Court on appeal would normally not disturb the findings of the trial court on the credibility of witnesses in view of the latter's advantage of observing at first hand their demeanor in giving their testimony, the Court has consistently held that this rule of appreciation of evidence 'must bow to the superior and immutable rule that the guilt of the accused must be proved beyond reasonable doubt, because the law presumes that a defendant is innocent and this presumption must prevail unless overturned by competent and credible proof.'"^[22]

- Nor is the scope of the constitutional presumption of innocence a matter left unresolved. As was held in the recent case of *People v. Dramayo*:^[23] "That is a right safeguarded both appellants. Accusation is not, according to the fundamental law, synonymous with guilt. It is incumbent on the prosecution to demonstrate that culpability lies. Appellants were not even called upon then to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."^[24]

It is to be admitted that until 1910 in *United States v. Lasada*,^[25] such a test was not specifically spelled out, reasonable doubt being predicated in the first decision on the matter, *United States v. Jose*,^[26] on "discrepancies in the evidence"^[27] and in *United States v. Santa Cruz*^[28] on "improbability."^[29] It would suffice, as held in the next case, *United States v. Reyes*,^[30] if there be proof "to the satisfaction of the court, keeping in mind the presumption of innocence, * * *."^[31] Then finally in *Lasada* came the now accepted standard of moral certainty. As set forth in the opinion of Justice Trent: "By reasonable doubt is not meant that which of possibility may arise, but it is that doubt endangered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt. Absolute certainty of guilt is not demanded by the law to convict of any criminal charge but moral certainty is required, and this certainty is required as to every proposition of proof requisite to constitute the offense."^[32]

- It would follow, therefore, that it is only on a showing that the decision now on appeal betrayed insensitivity to the test of moral certainty could its reversal be justified, the constitutional presumption of innocence not having been overcome. Such a task is far from easy. The decision now on appeal exhibits on its face an analysis both thorough and discriminating of the evidence for the prosecution and for the defense. Apparently that did not deter nor unduly discourage counsel for appellants, who as noted, did try hard, sparing no effort in the process. Nonetheless, a meticulous review of the records of the case fails to dent the well-reasoned and legally sound verdict reached by the lower court. A rigorous and impartial scrutiny of the proof coming from both the state and the appellants yields nothing that can sustain the reliance on presumption of innocence which suffices for their acquittal. On the contrary, their culpability had been shown beyond reasonable doubt. This is not to say that everything asserted by the witnesses for the prosecution was accurate in every respect.

Nor was it expected that it would be thus, given the human failings of memory and of expression, and the feeling of tension that accompanies what for many is such an ordeal. Even those who have had the benefits of higher education, when called upon to testify, are hardly ever at ease. Contradictions then do not vitiate the worth of what is said. They can hardly be fatal in character. Such flaws, in the language of *People v. Divinigracia*,^[33] "are not convincing enough to justify a contrary conclusion."^[34] So this Court has repeatedly held,^[35] especially so where the discrepancies or inconsistencies relate to matters of mere details^[36] or otherwise insignificant,^[37] unimportant,^[38] or unsubstantial.^[39] It should not escape attention that in a *per curiam* opinion, this Tribunal even went so far as to affirm: "Such inconsistencies and contradictions, rather than weakening the probative value of their testimonies, strengthened them, for if they have given exactly identical statements, the defense would be justified in alleging that they have been reciting their lessons in court."^[40] On this aspect of the matter, an excerpt from the opinion of Justice Tuason in *People v. Mangcol*^[41] is relevant. After taking note of the "commendable zeal, industry and thoroughness" of counsel for appellants, the jurist continued: "We, too, have thoroughly reviewed the record and checked up on the alleged contradictions. We are of the opinion that, read as a whole, the evidence fully sustains the lower court's findings. The faults to which the appellants call our attention are not of sufficient weight to destroy the conviction engendered by other and more reliable tests of a witness' veracity. The alleged discrepancies have been explained satisfactorily or are unimportant, susceptible of other interpretations not incompatible with the good faith and truthfulness of the witnesses."^[42] The attack on the credibility of the testimony offered by the prosecution is even more unimpressive relying as it does on Chancellor Van Fleet's oft-quoted test that evidence to inspire belief "must not only proceed from the mouth of a credible witness, but it must be credible in itself—such as the common experience and observation of mankind can approve as probable under the circumstances * * *."^[43] Under such a standard, nothing that was testified to by the prosecution could be truly characterized as incompatible with or repugnant to the common experience and observation of mankind. It does appear undeniable then that the attribute of moral certainty cannot be considered wanting and the presumption of innocence completely overcome.

- So it was likewise stressed in the well-researched brief of Solicitor General Estelito P. Mendoza and the then Assistant Solicitor General, now Judge, Eduardo C. Abaya. What is more, it did also emphasize the following: "A week before December, 1969, the brothers of the late Santiago Nevado, namely, Dr. Antolin Nevado and Segundo Nevado, together with the two appellants Dionisio Macaraeg and Felix Macaraeg and their brother Benigno Macaraeg who at the time was the Barrio Captain of Apaya, Malasiqui, Pangasinan, were invited by retired General Francisco Joves who happened to be from Malasiqui to a conference to settle their differences, and in that meeting, the appellants admitted that they killed Santiago Nevado in order to avenge the death of their brother Alfredo Macaraeg * * *. It likewise appears that sometime on November 11, 1969, at about 5:00 o'clock in the afternoon, the two appellants, who appeared drunk, came to the market stall of Asuncion Vda. de Nevado, widow of the late Santiago Nevado, and told the latter that they were looking for her husband in order to kill him * * * because it was her husband who instigated the killing of their brother Alfredo Macaraeg * * *."^[44] It should not escape attention that counsel for appellants did not file a reply brief notwithstanding two motions for extension of time, both granted, to enable them to do so, thus resulting in this Court issuing a resolution on August 25, 1972 to the effect that the case was submitted for decision without it. A legitimate inference is that no refutation of such circumstances, which as left unexplained, are quite damaging, could be offered. Nor was it the first time such a response was expected of appellants. The lower court decision made mention of them. There is that much more reason, therefore, for not reversing the judgment.

WHEREFORE, the decision of October 16, 1970 is affirmed. With costs against appellants.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] He was Santiago Nevado. His companion at the time of this grim tragedy, who likewise died, was Filomeno Paragna.

[2] The two accused, now appellants, are Dionisio Macaraeg and Felix Macaraeg.

[3] He was assisted by his associate Gabriel P. de Jesus. Attorney Alfredo Guiang likewise appeared on behalf of the appellants.

[4] According to Article III, Section 1, par. 17 of the 1935 Constitution: "In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, * * *." The Revised Constitution reiterates such a right in its Article IV, Section 19 thus: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

[5] T. s. n. Session of May 27, 1970, 37; Session of June 1, 1970, 4, 5.

[6] Ibid, Session of May 27, 1970, 38; Session of June 1, 1970, 6, 7.

[7] Ibid, Session of June 1, 1970.

[8] Exhibit F, Record, 80-81.

[9] Exhibit D, Ibid, 79.

[10] Exhibit C, Ibid, 78.

[11] T. s. n., Session of May 25, 1970, 14.

[12] Ibid, 15, 31.

[13] Ibid, 4-6.

[14] Ibid, Session of June 22, 1970, 99, 100, 105.

[15] Ibid, 105, 106.

[16] Brief for the Defendants-Appellants, 15A.

[17] Cf. *People v. Niem*, 75 Phil. 668 (1945); *People v. Dizon*, 76 Phil. 265 (1946); *People v. Sardona*, 79 Phil. 607 (1947); *People v. Imson*, 80 Phil. 284 (1948); *People v. Santos*, 82 Phil. 167 (1948); *People v. Dedal*, 82 Phil. 203 (1948); *People v. Ronda*, 82 Phil. 414 (1948); *People v. Castillo*, 82 Phil. 420 (1948); *People v. Canastre*, 82 Phil. 480 (1948); *People v. Figueroa*, 82 Phil. 559 (1949); *People v. Aranguren*, 82 Phil. 696 (1949); *People v. Meriales*, 84 Phil. 18 (1949); *People v. Pineda*, 84 Phil. 465 (1949); *People v. Abalos*, 84 Phil. 771 (1949); *People v. Bondoc*, 85 Phil. 545 (1950); *People v. Dy Too*, 86 Phil. 146 (1950); *People v. Mamacol*, 87 Phil. 772 (1950); *People v. Buransing*, 88 Phil. 363 (1951); *People v. Sasota*, 91 Phil. 111 (1952); *People v. Baysa*, 92 Phil. 1008 (1953); *People v. Fader*, 94 Phil. 522 (1954); *People v. Rodriguez*, 95 Phil. 135 (1954); *People v. Umali*, 99 Phil. 36 (1956); *People v. Binsol*, 100 Phil. 713 (1957); *People v. Arpon*, 100 Phil. 765 (1957); *People v. Villaroya*, 101 Phil. 1061 (1957); *People v. Paunil*, 103 Phil. 804 (1958); *People v. Briz*, 104 Phil. 329 (1958); *People v. Divinagracia*, 105 Phil. 281 (1959); *People v. Caisip*, 105 Phil. 1180 (1959); *People v. Dagatan*, 106 Phil. 88 (1959); *People v. Barroso*, 106 Phil. 177 (1959); *People v. Corpuz*, 107 Phil. 44 (1960); *People v. Guzman*, 107 Phil. 1122 (1960); *People v. Sabuero*, 108 Phil. 74 (1960); *People v. Aquidado*, 108 Phil. 186 (1960); *People v. Ambahang*, 108 Phil. 325 (1960); *People v. Uлита*, 108 Phil. 730 (1960); *People v. Bulan*, 108 Phil. 932 (1960); *People v. Carunungan*, 109 Phil. 534 (1960); *People v. Acanto*, 109 Phil. 993 (1960); *People v. Guarnes*, 110 Phil. 379 (1960); *People v. Corpuz*, 110 Phil. 633 (1961); *People v. Linde*, 110 Phil. 637 (1961).

[18] Cf. *People v. Carandang*, L-31012, Aug. 15, 1973 relying on *People v. Angcap*, L-28748, Feb. 29, 1972, 43 SCRA 437, which traced the growth of this doctrine from *United States v. Pico*, 15 Phil. 549, a 1910 decision. An excerpt from Justice Malcolm's opinion in *People v. De Otero*, 51 Phil. 201 (1927) was also cited.

[19] L-18660 and L-18661, Nov. 29, 1968, 26 SCRA 342.

[20] Ibid, 365.

[21] L-29948, Nov. 26, 1970, 36 SCRA 113.

[22] Ibid, 124.

[23] L-21325, Oct. 29, 1971, 42 SCRA 59.

[24] Ibid, 63-64.

[25] 18 Phil. 90.

[26] 1 Phil. 402 (1902).

[27] Ibid, 404.

[28] 1 Phil. 726 (1903).

[29] Ibid, 727. Cf. United States v. Balboa, 2 Phil. 115 (1903).

[30] 3 Phil. 3 (1903).

[31] Ibid, 6. Cf. United States v. Fernandez, 17 Phil. 573 (1910); United States v. Lasada, 18 Phil. 90 (1910); United States v. Lamadrid, 27 Phil. 76 (1914); United States v. Javier, 31 Phil. 235 (1915); United States v. Garces, 31 Phil. 637 (1915); United States v. Latido, 38 Phil. 741 (1918); United States v. Bonete, 40 Phil. 958 (1920); People v. Gallego, 44 Phil. 192 (1922); People v. Tabuche, 46 Phil. 28, (1924); People v. Padernal, 49 Phil. 991 (1926); People v. Tayag, 59 Phil. 606 (1934).

[32] United States v. Lasada, 18 Phil. 90, 96-97 (1910). Cf. People v. Lanas, 93 Phil. 147 (1953); People v. Lavarias, L-24339, June 29, 1968, 23 SCRA 1301; People v. Dramayo, L-21325, Oct. 29, 1971, 42 SCRA 59. The Dramayo decision cited People v. Esquivel, 82 Phil. 453 (1948) and 27 other cases.

[33] 105 Phil. 281 (1959).

[34] Ibid, 285.

[35] Cf. People v. Gani, 81 Phil. 139 (1948); People v. Ubaldo, 81 Phil. 232 (1948); People v. Castillo, 82 Phil. 420 (1948); People v. Esquivel, 82 Phil. 453 (1948); People v. Capua, 85 Phil. 421 (1950); People v. Sigue, 86 Phil. 132 (1950); People v. Lincuna, 86 Phil. 282 (1950); People v. Tan, 89 Phil. 337 (1951); People v. Fader, 94 Phil. 522 (1954); People v. Selfaison, 110 Phil. 839 (1961).

[36] Cf. People v. Escosura, 82 Phil. 41 (1948); People v. Bulatao, 82 Phil. 753 (1949); People v. Navea, 87 Phil. 1 (1950); People v. Jimenez, 99 Phil. 285 (1956).

[37] Cf. People v. Prosea, 86 Phil. 31 (1950).

[38] Cf. People v. Cabiling, 89 Phil. 60 (1951) and People v. Paunil, 103 Phil. 804 (1958).

[39] Cf. People v. Ramos, 84 Phil. 326 (1949).

[40] People v. Alupay, 85 Phil. 688, 694 (1950).

[41] 86 Phil. 612 (1950). Cf. People v. Cobalida, 82 Phil. 576 (1949).

[42] Ibid, 615.

[43] *People v. Macatangay*, 107 Phil. 188, 191 (1960); *People v. Acusar*, 82 Phil. 490 (1948); *People v. Ramirez*, 83 Phil. 418 (1949); *People v. Lacson*, 83 Phil. 574 (1949); *People v. Eraña*, 84 Phil. 21 (1949); and *People v. Talledo*, 85 Phil. 533 (1950).

[44] Brief for the Appellee, 3-4.

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