

THE PEOPLE OP THE PHILIPPINES VS. GERARDO DURLAO, ET AL., DEFENDANTS, GERARDO DURLAO, DIEGO FAMILAREANO AND FROILAN TABUNDAY, DEFENDANTS-APPELLANTS.

G.R. No. L-17163. September 26, 1962

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Appeal from a decision of the Court of First Instance of Zambales,

SUMMARY

This is an appeal from a decision convicting the accused-appellants of the crime of murder and sentencing them to life imprisonment and to indemnify the heirs of the victim jointly and severally. The testimony of the victim's son positively identified the herein appellants as the perpetrators of the crime which was partly corroborated by one Egidio Basa, who had assisted in burying the body of the victim. The appellants denied having committed the crime and each-except one-set up the defense of alibi. The lower court accepted the version of the prosecution and found the evidence for the defense unworthy of credence. Decision appealed from is affirmed.

RULING

The Supreme Court find no plausible reason to disturb the findings of fact of the lower court. In an affidavit made before the Justice of the Peace of Botolan, Zambales, Juan Famulareano admitted that neither he nor Froilan Tabunday had gone to the sitio of Camao, on March 24, 1943, contrary to their testimony in this case. In said affidavit, Juan Famulareano also allegedly learned from his brother Diego that Engracio Doble had been shot by Gerardo Dumlao, who confirmed this fact. Also, Diego Famulareano admitted that he could not explain why Bendito Doble had implicated him.

Regarding the motive in committing the crime, it appears that the victim Engracio Doble, as second officer in command of the Western Luzon Guerilla Force—was suspected—as responsible for¹, or instrumental in, the execution by the guerillas of certain cousins of the appellants, suspected as spies of the Japanese and that said victim had turned down the request of one of the accused that his cousin Eulogia Dumlao, be buried in the barrio cemetery instead of the place where she died, as well as a request that he be transferred from a given guerilla sector to another.

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