

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUIS BERALDE, DEFENDANT-APPELLANT.

G.R. No. L-32832. June 29, 1979

Ponente: SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d6e806e11a85/>

SANTOS, J.:

This is an appeal filed September 30, 1970 from the decision of the Court of First Instance of Abra, Hon. Juan P. Aquino, presiding, in Criminal Case No. 739, convicting accused-appellant Luis Beralde of the crime of double murder and sentencing him to suffer for each of the crimes of murder committed by him the penalty of reclusion perpetua and to indemnify the heirs of the victims in the sum of P12,000 each and to pay the costs.

In an Information filed on February 18, 1969 by Provincial Fiscal Loreto C. Roldan of Abra, accused-appellant Luis Beralde, was charged with the crime of double murder committed against Constantino Bose and Consolacion Bandayrel Bose, thus –

"The undersigned, Provincial Fiscal accuses LUIS BERALDE of the crime of DOUBLE MURDER, defined and penalized under the provisions of Art. 248 of the Revised Penal Code of the Philippines, committed as follows:

"That on or about the 31st of July, 1968, in the Municipality of Bangued, Province of Abra, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Luis Beralde, armed with sharp-pointed and sharp-bladed instrument, with deliberate intent to kill and without justifiable motive, with treachery and evident premeditation, abuse of superior strength and taking advantage of the night, did then and there wilfully, unlawfully and feloniously assault, attack, hack, stab and bolo Consolacion Bose and Constantino Bose, husband and wife, respectively, inflicting upon Consolacion Bose, bolo wound measuring 4 inches in length at the occipito-temporal region, right; 2 1/2 inches in length on the right ear; 1 1/4 inches located on the upper lip; abrasion superficial on the left shoulder; and Constantino Bose, bolo wound on the different parts of his body, which wounds caused their instantaneous death.

"CONTRARY TO LAW, with the aggravating circumstances, in the commission of the crime, to wit: (a) treachery and evident premeditation; (b) abuse of superior strength; (c) taking advantage of the night; and, (d) with the use of sharp-pointed and sharp-bladed instrument.

Bangued, Abra, Feb. 18, 1969.

SGD. LORETO C. ROLDAN

Provincial Fiscal"[1]

Accused Luis Beralde having pleaded not guilty, trial proceeded and the prosecution adduced the testimonies of - (1) Narciso Laureta, Chief of Police of Bangued, Abra; (2) Pat. Eduardo Bringas, member of the Bangued Police Force; (3) Francisco T. Valera, Municipal Judge of Bangued, Abra; (4) Roque Alcantara, former member of the Bangued Police Force; (5) Mrs. Jael Pisco, a niece of the victim Constantino Bose; (6) Dr. Luis F. Bringas, Rural Health Physician of Dolores, and 25 pieces Exhibits "A" thru "J" with sub-parts. Among the exhibits presented

were the - (1) autopsy reports (Exhibits "A" and "C"); (2) the bolo recovered in the middle of the corn field (Exh. "B" identified also as Exhibit "G"); (3) the bolo and the scabbard taken from the victim Constantino Bose (Exhibits "F" and "F-2"); (4) the pictures taken of the dead victims (Exhibits "E" - "E-5"); and (5) the confession of Beralde reduced into writing (Exhibit "H"). The defense which relied on alibi, presented the testimonies of - (1) accused Luis Beralde; (2) Juliet Beralde, his wife; (3) Perfecto Fabriga, his father-in-law; and (4) Antonio Alagao Adrion, a friend of Juliet Beralde; and Exhibit "1", a drawing of the bolo; and Exhibit "3", a scabbard of the bolo of the victim Constantino Bose. The prosecution then presented by way of rebuttal police chief Narciso Laureta, Judge Francisco T. Valera, Roque Alcantara and Jael Pisco.

No eyewitness to the commission of the double murder was presented. But on the basis of appellant's extrajudicial confession and the testimonies of witnesses who conducted the investigation of the offenses, the following facts were established.

On the night of 31 July 1968, at about 10:00, Chief of Police Narciso Laureta received a report from one of his policemen that two persons were found dead in the middle of the road leading to Barrio Anggad, Bangued, Abra. Thereupon, Laureta, together with Municipal Judge Francisco T. Valera, and some policemen and a civilian, followed later by Dr. Luis Bringas and Patrolman Eduardo Bringas, went to the place. They found the dead bodies of an old man and an old woman. Lying at a distance of 25 to 30 meters apart, the victims were identified as Constantino Bose and Consolacion Bandayrel-Bose, husband and wife. It was apparent that they came from the fields. When Constantino Bose was found, the yoke of the plow was still on his shoulder and his hand was holding a rope tied to a cow which was nonchalantly grazing at the side of the road.

Pictures were taken of the victims by Mr. Vic Abaya and a sketch of the scene of the crime was drawn by Cpl. Faustino Castillo Jr. Thereafter, the bodies of victims were brought home.[2]

As a routine procedure, Chief of Police Laureta began his investigation and inquiry to identify the perpetrator(s) of the crimes. It was then that one policeman, Pat. Eduardo Bringas who was on duty informed him that a few hours earlier in the same evening at about 8:00 p.m., while he was on his way to the Municipal Hall, coming from his house where he took his supper, he passed by Luis Beralde and Jaime Bringas, standing at the junction (lipit) leading to Barrio Anggad, some 30 to 40 meters away from the scene of the crime. According to Pat. Bringas, the two men stopped him to ask for cigarettes and he obligingly gave them one stick of cigarette each. He lingered for a while, talked with them, and asked why they were there, and Beralde told him that he was waiting for his wife. He (Pat. Bringas) then proceeded on his way to the Municipal building.[3]

The following morning, on August 1, 1968, Chief of Police Laureta, acting upon the information of Pat. Bringas, ordered his policemen to bring Luis Beralde and Jaime Bringas to the Municipal Hall. They fetched, first, Jaime Bringas. At the beginning of the investigation, Bringas hesitated to give his story. Finally, however, he relented and told Chief Laureta that while he and Luis Beralde were waiting at the opening of the alley, Luis intimated to him his plan to kill the couple. Because he did not like the idea, he persuaded him to go home. Luis Beralde, however, refused and so he (Bringas) went home alone. That later, Beralde arrived home and informed him that "they were already dead". Jaime Bringas' statements were taken down by Sgt. Martin Arce in the presence of Chief Laureta who occasionally asked questions.[4]

Later on, at about 10:00 a.m. of the same day, Pat. Eduardo Bringas arrived with Luis Beralde. Chief Laureta interrogated him. At first, Beralde was also evasive; but after several searching questions, he broke down and cried and admitted that he was the one who killed Constantino Bose and Consolacion Bose. He told Chief Laureta that he killed them because the woman was a witch and she had "tapped" his wife's head, which caused her illness; that he felt that there was no use to go on living if his wife would die because of her condition; that he first

boloed the woman on the head and when Constantino Bose turned around and found what happened, he delivered a thrust on the breast of Constantino. When asked what weapon he used in killing the victims, he revealed that it was a pointed bolo and that the same was buried in the middle of the corn field, east of their house in Barrio Anggad. Thereupon, Chief Laureta, together with some policemen accompanied Beralde to the said place, and there, at the spot Beralde pointed to, they unearthed a bolo which had stains on the blade. It could not be ascertained, however, if the stains were human blood.[5]

Brought back to the municipal building, Beralde reiterated to Bangued Mayor, Simplicio Bringas, the circumstances surrounding the killing of the old man and the old woman. Later, in the presence of Chief Laureta -- who also propounded questions, particularly the motive for the killing -- and Cpl. Faustino Castillo, the statement of the accused was reduced to writing by Sgt. Martin Arce.[6]

Judge Francisco Valera administered the oath to Beralde.[7]

The relevant/material portion of the extra-judicial confession reads as follows -

x x x

"Q - Are you willing to give your voluntary statement in this investigation?

A - Yes, Sgt.

Q - Tell me your name, age and other personal circumstances.

A - Luis Beralde, 24 years old, married and presently employed in the Bangued Water Works, Sgt.

Q - Why are you here in the office of the Chief of Police?

A - I am here because I was invited due to the death of Constantino Bose and his wife, Sgt.

Q - Who killed the spouses if you have any knowledge?

A - I am the one, Sgt.

Q - What is the reason or cause why you killed the named spouses if there is any?

A - Because they bewitch my wife, Sgt.

Q - Who bewitch your wife if you know anybody?

A - The wife of Constante who is Ansing.

Q - What kind of weapon did you use in killing the spouses?

A - A pointed bolo, Sgt.

Q - Where is that bolo now used in the killing?

A - It is in our house in Anggad where I hid it.

Q - Showing to you a pointed bolo, what is the relation of this bolo to you?

A - That is the bolo that I used, Sgt.

Q - You said before that you killed the spouses because they bewitch your wife, who of them bewitched your wife?

A - The girl, Sgt.

Q - Why did you also kill the old man?

A - Because when I was boloing the woman, he came to bolo me also, so I have to kill him, Sgt.

Q - Is it not true that you have a companion in killing the spouses?

A - None, I was only one, Sgt.

Q - Do you know Jaime Bringas?

A - I know him because he is staying in our place.

Q - Is it not true that Jaime was your companion in going to the house of the spouses and it was that place where you should do the killing, but since they were not there, you went to wait in the path going to the barrio of Anggad?

A - Yes, that was true, Sgt.

Q - Where was the place of the killing of the spouses?

A - Right at the street near Barrio Anggad.

Q - Do you remember the time when you killed the spouses?

A - Yes, it was around 10:00 o'clock in the evening, July 31, 1968.

Q - You said that you went near the house of the spouses, how did you know that they are not in their house?

A - I heard voices of two girls and one said, come let us eat and they will also eat when they will arrive.

Q - When you were waiting at the path at barrio Anggad, the spouses whom you wanted to kill, is it not true that police Eduardo passed you by?

A - Yes, Sgt. and I even beg for a cigarette?

Q - So Police Bringas gave you a cigarette?

A - Yes, he gave me, Sgt.

Q - After killing the spouses, where did you go if you remember?

A - I went home to the Poblacion (Bangued), Sgt.

Q - Where did you walk when you went to the Poblacion?

A - The big street, Sgt.

Q - What time is your calculation when you arrived at the Poblacion?

A - At around 11:00 o'clock in the evening of July 31, 1968.

Q - When you arrived at the Poblacion, where did you went?

A - At the house of my father-in-law, Sgt.

Q - Upon arriving at the house of your in-laws, did you not tell to anybody about the killing?

A - None, Sgt.

Q - I have no more to ask from you, do you have something more to say?

A - No more, Sgt.

Q - Are you forced, intimidated, dictated or being promised of a reward in giving your statement?

A - No, Sgt.

Q - Do you want to sign this statement?

A - Yes, Sgt."⁹

x x x

Meanwhile, in the morning of the same day, the bodies of the victims were autopsied. Dr. Felix Buenafe, reduced his findings on the body of Consolacion Bose. The following wounds were found on her body:

"Wound No. 1 - incised, measuring 4 in. in length, located on the occipitotemporal region, right, featuring the skull on the same area with brain tissue coming out;

Wound No. 2 - incised, measuring 3 in. in length, located 3/4 inch above Wound No. 1;

Wound No. 3 - incised, measuring 1 inch in length, located 1/2 below wound No. 1;

Wound No. 4 - incised, measuring 2 1/2 ins. in length, located on the ear, right;

Wound No. 5 - incised, measuring 1 1/4 ins. in length, located on the upper lip right aspect and continues to the gum;

Wound No. 6 - abrasion, superficial, located on the left shoulder."¹⁰

The result on the autopsy of the remains of Constantino Bose performed by Dr. Luis Bringas show the following findings re the cause of his death:

"Stab wound - Triangularly shape, situated at 4th left Sternocostal junction (Sterno Costal junction fractured) the base (6 cm) parallel to ribs perpendicular side everted (7 cm), in line of sternum Hypotenuse everted (11 cm), slightly curved in. Fracturing the bone, penetrating and perforating the Thoracic cavity slightly left downwards, medially posteriorly and internally to a depth of 24.5 cm. The probe director inserted, the 6th rib at back was felt. When opened it shows a small hole in it showing the instrument used was pointed.

Internally: - The left Thoracic cavity was filled with plenty of blood clots and serosanguinous fluid.

1. The right latero-anterior portion of right ventricle punctured Y shaped (7 cm) wide penetrating and perforating the down to left ventricle (6 cm) wide and up to the 6th rib a small hold on it.

2. There were plenty of adhesions on both sides and back of lungs indicating advance pulmonary tuberculosis.

Conclusions: Death was instantaneous due to Stab Wound above, secondary to severe internal hemorrhages."¹¹

On the same day, August 1, 1968, on the basis of the extrajudicial confession of Luis Beralde and the statements of several persons which were all sworn to before the municipal Judge the Chief of Police filed a complaint against Luis Beralde and Jaime Bringas in the Municipal Court of Bangued, Abra.¹²

On August 6, 1968, a preliminary investigation was conducted by Judge Francisco T. Valera.¹³ Thereafter, on August 9, 1968, a warrant of arrest was issued for the apprehension of accused Luis Beralde, pursuant to said court's order of the same date. Said order also directed the Chief of Police to amend the complaint by excluding Jaime Bringas, who did not appear to have taken part in the commission of the crimes.¹⁴

On September 17, 1968, accused Beralde was released on bail.¹⁵ After several postponements of the second stage of preliminary investigation, accused Beralde on November 19, 1968, waived his right to present his evidence.¹⁶

On February 18, 1969, an information, as adverted to above, was filed against Beralde accusing him of the crime of double murder.

While the trial was in progress, the Fiscal manifested his desire to reinvestigate the case so as to include Jaime Bringas as co-accused.¹⁷ A warrant of arrest was issued against Jaime Bringas.¹⁸ Jaime Bringas, however, had in the meantime disappeared and the prosecution was never able to bring him to trial.

After the hearings or on September 18, 1970 -- the prosecution submitted its memorandum earlier, while the defense failed to do so -- the trial Court rendered its decision, holding inter alia that:

X X X

"The accused boloed to death Consolacion Bandayrel-Bose treacherously and with evident premeditation hence, he committed the crime of Murder. As to her husband, the accused stated in his confession that he also killed the old man Constantino Bose when said Constantino Bose went to help his wife, but the court can-not believe this because according to the testimony of Dr. Luis Bringas and Chief Laureta who went to see the body of the victims on the night of the incident, they saw the bolo of Constantino Bose still underneath the body of the deceased unsheathed from its scabbard, so that the court is of the opinion that the accused also killed the deceased Constantino Bose treacherously and with evident premeditation, hence, he has also committed the crime of Murder for killing the deceased Constantino Bose."

"IN VIEW OF ALL THE FOREGOING FACTS AND CIRCUMSTANCES, it is the opinion of the court, and so holds, that corpus delicti, corroborated by the confession of the accused has been proven completely.

"WHEREFORE, the guilt of the accused has been proven beyond any peradventure of doubt of the crime of Double Murder for killing treacherously and with evident premeditation Consolacion Bandayrel-Bose and her husband, Constantino Bose. For the murder of Consolacion Bandayrel-Bose, the accused is hereby sentenced to suffer life imprisonment and to indemnify the heirs of the deceased Consolacion Bandayrel-Bose in the sum of P12,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs of this proceedings. For the murder of the deceased Constantino Bose, the accused is, likewise, sentenced to suffer the penalty of life imprisonment and to indemnify the heirs of said Constantino Bose in the amount of P12,000 without subsidiary imprisonment in case of insolvency and also to pay the costs of the proceedings.

"The bolo, Exhibit 'B' and 'G', used in the commission of the crime, and the other bolo, Exhibit 'F', found underneath the body of the deceased Constantino Bose, are hereby ordered confiscated in favor of the government."¹⁹

X X X

In seeking the reversal of the above decision, appellant -- thru counsel de parte Atty. Demetrio V. Pre and Nony R. Rivera of Bangued, Abra and May Bldg., Rizal Avenue, Manila -- alleges that the trial court erred:

"I. ...IN HAVING GIVEN CREDENCE AND WEIGHT TO THE UNCORROBORATED EXTRAJUDICIAL CONFESSION OF THE APPELLANT, EXHIBIT 'H' WHICH WAS REPUDIATED BY SAID APPELLANT.

"II. ...IN NOT HAVING RULED THE EXTRAJUDICIAL CONFESSION EXHIBIT 'H' INADMISSIBLE IN EVIDENCE AGAINST THE APPELLANT.

"III. ...IN NOT HAVING GIVEN CREDENCE AND WEIGHT TO THE EVIDENCE OF THE APPELLANT.

“IV. ...IN HAVING CONVICTED THE APPELLANT AND IN NOT HAVING ACQUITTED HIM ON REASONABLE DOUBT.”²⁰

1. The complementary thrust of appellant's first and second assigned errors is that his extrajudicial confession, Exhibit "H" -- upon which, absent eye-witness testimony, the Court relied for his conviction -- is inadmissible. He alleges that (a) the confession (Exh. "H") is involuntary;²¹ (b) Exhibit "H" has badges of fraud and falsity;²² (c) Jaime Bringas and Sgt. Martin Arce were not presented as witnesses;²³ and (d) he was denied the right to be assisted by counsel.²⁴

2. By the third and fourth assigned errors, appellant claims that his defense of alibi should have been accepted, and that he should be acquitted on reasonable doubt.²⁵

Now to consider and resolve the merits of the foregoing.

1.a. That Beralde's extrajudicial confession, Exhibit "H", is involuntary. In disowning his extra-judicial confession, accused-appellant claims that at the time he was being subjected to interrogation he was forced, through violence and intimidation, to admit the killing of the victims; that it was 3:00 in the afternoon when the investigation was finished; that he was threatened by the policemen that if he would not swear to it before the judge, he would suffer further maltreatment; that at the house of the judge he was weak and dizzy as he had not taken his lunch and he could not pay attention anymore to what was read to him by Judge Valera; that he signed the confession because of fear that he would be returned to the presidencia to undergo more maltreatment.²⁶

On the other hand, the trial Court found and We perceive no reason to disturb its findings which derive ample support in the records -- that appellant's bare self-serving assertions are not worthy of credence. Thus, it noted "...the accused insisted that Sgt. Arce maltreated him (but) he knows pretty well that Sgt. Arce, a former member of the Bangued Police Force is no longer in the service and his whereabouts is (sic) unknown and cannot be presented at all by the prosecution because he cannot be located.”²⁷ Moreover, accused Beralde cannot name the other two policemen whom he alleged to have maltreated him, though he is a co-employee in the municipal government of Bangued” and he admitted that he had been going with them, he being a water bill collector.²⁸ And lastly, the Court concluded that since "the accused is a co-employee of the police authorities, the first natural impulse of a co-employee is to save a co-employee under ordinary circumstances".²⁹

We made a painstaking study of the transcript of stenographic notes and We find that the claims of accused-appellant do not deserve serious consideration. They cannot overcome the testimonies of Chief of Police Narciso Laureta and Municipal Judge Francisco T. Valera that the confession of the accused-appellant was freely and voluntarily given by him. These public officials who testified for the state were not shown to have ulterior motives for testifying falsely against the accused. Moreover, there is in their favor the presumption of regularity in the performance of their official duties.

Chief of Police Laureta testified that he was the one who investigated the accused when he admitted the killing of the victims and that he was present when Sgt. Arce reduced accused-appellant's statement into writing. That appellant was allowed to take his lunch and that there was no force or intimidation employed upon him, especially as he was their co-employee in the municipal government. That accused easily broke down, cried and confessed upon learning that Jaime Bringas had supplied the police with vital information.³⁰

Judge Valera in turn, a disinterested witness, testified that before appellant swore to his written confession, he informed him of his constitutional rights, specifically his right not to testify against himself; that he read the contents of the confession to the accused and he asked him if he desires to sign his statement, to which he answered "yes". He like-wise stated that when appellant appeared before him, he was calm and there was no sign of duress.³¹

Finally, a perusal of the confession shows that it is rich in details which only he could have revealed to the investigators -- the motives behind the assault on Consolacion and Constantino; the place where the killing took place and the time; that he met police Eduardo and even asked a cigarette from him; and, finally, the place where he hid the fatal weapon, which was verified by the police authorities to be correct and where in fact the bolo (Exh. "B") was recovered.

b. That Exhibit "H" has badges of fraud and falsity. It is alleged that there are discrepancies between the testimonies given in court and the statements appearing in Exhibit "H". According to appellant, his correct age then was 22 and not 24 as stated in the confession. Likewise, Exhibit "H" mentions 10:00 p.m. as the proximate time he killed the victims, while Dr. Bringas definitely testified that the death of the victims occurred between 7:00 to 7:30 in the evening. Appellant also capitalizes on the statement of Dr. Bringas that the bolo Exhibit "B" could not be the weapon that was used in stabbing Constantino Bose because the wound is triangular in shape. And, finally, that the motive behind the killing of the victims as stated in Exhibit "H" is a mere fabrication, alleging that there is no corroboration that Juliet Beralde had been sick or bewitched by Consolacion Bose and that there is no evidence that the latter was a witch.

The foregoing alleged inconsistencies, discrepancies and falsities in the statement (Exh. "H") upon which, coupled with proof of corpus delicti, the accused has been found guilty, are either minor and inconsequential and/or sufficiently explained in the context of the evidence on record. They do not merit serious consideration. We find the People's Brief³² well taken and successfully establishes the integrity of the confession. Thus –

"Appellant speaks of alleged badges of fraud and falsity of Exh. "H" (p. 20, Appellant's Brief). For instance, he contends that in Exhibit "H", his age was 24 years instead of 22 which was his correct age. Similarly, he points to the fact that Exhibit "H" also mentions 10:00 o'clock p.m. as the approximate time when he killed the victims. The discrepancy in age appearing in Exhibit "H" could have been deliberately intended by the appellant to mislead the court into concluding that the confession was not voluntarily given because of certain inaccuracies therein. By the same token, the information given by the appellant in Exhibit "H" that he killed the couple at 10:00 o'clock in the night of Oct. 31, 1968 could have been also intended to mislead the court in its appreciation of the confession. Why would the police investigators give the wrong information as to the approximate time of the death of the couple when at the time the confession was executed, they already knew that the approximate time of the killing was 8:00 p.m. If the confession was a coerced one, what the investigators would have done was to make the recital of facts in the confession conform as much as possible with the actual state of facts, because to do otherwise would render the confession suspect.

"Again, appellant describes the bolo, Exhibit 'B' used in the killing of the couple, as fake (pp. 21 - 25, Appellant's Brief). To sustain this view, appellant poses the question as to why the bolo was not photographed by the police, nor the recovery of the bolo included in the narration of facts in the confession. The answer to this question is self-evident. One of the reasons why police investigators usually photograph objects used in the crime is that such objects would be difficult to be brought to court. Such is not the case as regards to the bolo. The omission of any reference regarding the bolo in the confession is explained by the fact that the circumstances surrounding the recovery of the bolo were within the knowledge of the police investigators. Hence, any reference on the matter in the confession would serve no purpose at all.

"Lastly, appellant alleges that the bolo, Exhibit 'B' could not have been the fatal weapon because the wound inflicted on Constantino Bose was triangular in shape. This contention, however, has no basis because as Dr. Luis Bringas had later on testified, the triangular shape of the wound could have been caused by the twisting of the bolo inside the wound, thereby giving a triangular appearance of the wound."³³

As to motive, it is settled that motive is not a requisite element of any offense. At any rate the alleged motive was supplied by accused-appellant himself and he cannot now be heard to dispute it. Besides Jael Pisco, a niece of

Consolacion Bose, was presented to testify that there was a rumor that her aunt was a witch; it is a fact, in her own words "that she gives medicine like what the quack doctor does which we call 'mangod-odong' -- calling for the return of the spirit that was left behind somewhere".³⁴

c. That Jaime Bringas and Sgt. Martin Arce were not presented as witnesses for the prosecution. Appellant contends that since Jaime Bringas and Sgt. Arce were the persons who could corroborate the execution of Exh. "H", the wilfull suppression of these witnesses by the prosecution creates the presumption that presentation would have been adverse to the prosecution and favorable to the defense, citing Rule 131, Rules of Court, Section 5(e).³⁵

The argument of the Solicitor General by way of traverse is well-taken.

"x x x There can be no possible adverse effect insofar as the case of the prosecution is concerned in the non-presentation of these two witnesses. For one thing, their testimonies were not indispensable to sustain the court's finding of guilt of the appellant. At least their testimonies, had it been given to court would have been merely corroborative. This is necessarily so because, on the part of Jaime Bringas, he only provided the clue which was availed of by the police authorities in tracing the authorship of the crime. It should be recalled that Jaime Bringas was never an eyewitness to the killing. As regards Sgt. Martin Arce, while he was the one who investigated the appellant, which investigation led to the execution of the extra-judicial confession, Exhibit "H", his testimony in court was not deemed necessary because the prosecution had sufficiently established the voluntariness of said confession from the testimony of the Chief of Police as well as of the Municipal Judge of Bangued, Abra. Besides, the Chief of Police was present during the entire length of the interrogation of the appellant by Sgt. Arce. The truth of the matter, however, is that the prosecution tried to present these two witnesses, but notwithstanding its efforts in this direction, these two persons were nowhere to be found. If the defense is of the theory that these two witnesses were available during the hearing of the case at bar, why did it not present them, albeit, as hostile witnesses to illicit any information that might have led the lower court to conclude that the confession of the accused was a coerced one."³⁵

d. That Beralde was denied the right to be assisted by a counsel. This is clearly without merit. It has been a settled rule in our jurisdiction since March 3, 1975, first enunciated in *Magtoto v. Manguerra*, G.R. No. L-37201-02 and reiterated in subsequent decisions, the most recent of which is *People v. Molleda*, G.R. No. L-34248, prom., December 12, 1978, that the right to be represented by counsel at custodial investigation became effective and enforceable only after the enactment of the Constitution on January 17, 1973. Since the investigation of accused Beralde took place in 1968 and before the enactment of the new Constitution, the right to counsel was not applicable in this case.

2. That the lower court should have accorded credence to the alibi of appellant and acquit him on the ground of reasonable doubt.

The defense is alibi. According to accused-appellant, he was at home with his family in the Poblacion, Bangued, Abra when the victims were killed. He presented his immediate relatives to corroborate his alibi.

Accused-appellant's defense of alibi must necessarily fail. The proximity of his place of residence to the scene of the crime does not preclude the possibility that he was at the place of the crime at the time it was committed. For the defense of alibi to prosper, it is not enough that the defendant was somewhere else when the crime was committed, but he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime at the time of its commission. In the case at bar, the distance between his house and the scene of the crime could easily be negotiated in half an hour, especially so if he used the tricycle of his father. Finally, he admitted -- which admission was corroborated by Sgt. Eduardo Bringas -- that he was present at the scene of the crime at or about 8:00 in the same evening it was committed.

Thus, after a very careful consideration of the evidence of both sides -- the extrajudicial confession freely and voluntarily given with the proof of corpus delicti — and the finding that the alibi is not worthy of credence, We conclude that the guilt of the appellant has been established beyond reasonable doubt.

Now, as to the nature of the offense/offenses committed. The accused, under the facts proven on record, killed Consolacion Bandayrel Bose -- whom he suspected of being a witch and of having inflicted spells on his wife which caused her to suffer -- by hacking her from behind with a bolo and hitting her on the head. With respect to her, therefore, the accused committed the offense of murder qualified by treachery, i.e., the sudden attack from the rear which prevented Consolacion from offering any defense against his sudden homicidal assault.

With respect to Constantino Bose, the accused himself testified that when Constantino saw him hack Consolacion from behind, Constantino, on sudden impulse and in order to protect her, made an attempt to come to her rescue by hitting him with his bolo. Whereupon, the accused lunged at him, also inflicting fatal wounds on Constantino. The trial court, however, found that the accused committed murder as against Constantino, thus –

"x x x As to her husband, the accused stated in his confession that he also killed the old man Constantino Bose when said Constantino Bose went to help his wife, but the Court can-not believe this because, accord-ing to the testimony of Dr. Luis Bringas and Chief Laureta who went to see the body of the vic-tims on the night of the incident, they saw the bolo of Constantino Bose still underneath the body of the deceased unsheathed from its scabbard, so that the Court is of the opinion that the accused also killed the deceased Constantino Bose treacherously and with evident premeditation, hence, he also com-mitted the crime of Murder for killing the deceased Constantino Bose."36

The evidence on record supports the foregoing conclusion.

The oral testimony of Dr. Luis F. Bringas who saw the bodies of the victims in the evening of July 31, 1968, clearly shows that the victim Constantino Bose whose body was already lifeless was still holding the rope of his cow which was still grazing on the side of the road, while the yoke of his plow was still on his left shoulder, indicating that he came from the fields. The pertinent portion of Dr. Bringas' testimony is quoted hereunder:

"Q. - So you saw the cadaver of the victims in the evening of July 31, 1968, doctor?

"A. - Yes, sir.

"Q. - That is just after they were killed?

"A. - Yes, sir.

"Q. - The bodies were already life-less?

"A. - Yes, sir, they were lying in the middle of the street at a distance of around 20 meters from each other. The old man was ahead, while the old woman was at the back or behind with the particular thing that the old man had, even dead, was holding the rope of his cow grazing at the side of the road, with his plow on his shoulder or rather the yoke of his plow at his left shoulder, indicating that he came from the fields.

x x x x x x x x

"Q. - Doctor, you said that you went to the Municipal Judge or you went with the Municipal Judge at the scene of the crime and you saw the dead body along the road. Do you know if there were pictures taken on the cadavers?

"A. - Yes, there was.

"Q. - Now, if those pictures were shown to you, can you recognize the victims?

"A. - Yes, sir.

"Q. - I show to you this picture on page 18 of the record of this case referring to the deceased Constantino Bose. Now, will you see doctor if you have seen this body of the victim as now appearing in this picture?

"COURT (To the Fiscal)

How many pictures are there fiscal?

"FISCAL ROLDAN

Three (3) pictures, Your Honor.

"WITNESS

"A. - These are the pictures of the old man by the name Constantino Bose. As I have stated a while ago, the cow could be seen grazing along the road.

"Q. - The cow that you are referring to is in the picture above the two pictures on page 18, is it not doctor?

"A. - Yes, sir.

"Q. - Now doctor, at the bottom, which is the third picture below on page 18, there is a protruding instrument which seems to be the handle of a bolo behind the back of the man, what could have been that handle there?

"A. - Maybe that is the handle of the bolo of the man.

"COURT

Are you not going to mark that as exhibit fiscal?

"FISCAL ROLDAN

When the photographer is pre-sented, Your Honor, I will have it marked.

"FISCAL ROLDAN (Cont)

"A. - The bolo must have been drawn a little from the scabbard and that the scabbard is under the waist of the victim, is that correct doctor?

"A. - Yes, sir, that is right.

"Q. - It is partly hidden?

"A. - Yes, the bolo is partly hidden by the victim as could be seen here."

Chief of Police Narciso Laureta, who also saw the bodies of the victims, testified that the rope of the cow was still "tied" to the hands of Constantino Bose³⁸ and that the body of Constantino was resting on a bolo which was inserted in its scabbard.³⁹

Furthermore, these witnesses saw that the bodies of the victims were lying at a distance of at least 20 meters apart.⁴⁰

If it were true, as claimed by appellant, that Constantino Bose "came to bolo" him while he (appellant) was attacking Consolacion, the body of Constantino would not have been found so far away from Consolacion's body, and he (Constantino) would have been found holding a bolo in his hand or, at least removed the same from its scabbard, but not, as the evidence showed, holding the rope of his cow, with the yoke of his plow still on his shoulder.

The logical conclusion, therefore, is that accused-appellant attacked Constantino so suddenly without giving him a chance to prepare for the attack, or an opportunity to defend himself, and for such a treacherous act, appellant should be held liable for murder.

And, finally, as to the proper penalty.

The Information charged the accused with double murder. He may therefore - on the basis of the foregoing established facts - be found guilty of the lesser-included offenses of separate murders, of Consolacion and Constantino. For the charge for double murder is not well-taken, it appearing that the offenses committed, as the facts show, were that of murders committed one after the other and inspired by distinct homicidal urges, as distinguished from the complex offense of double murder, resulting from a single act on the part of the accused.

The crime of murder of Consolacion was committed with the attending, aggravating circumstance of nighttime, which accused purposely sought to facilitate the commission of said offense. This, however, is absorbed by the qualifying circumstance of treachery.⁴¹ With respect to Constantino, nocturnity is not aggravating since it was not especially sought by the accused. The intent to kill Constantino was conceived only shortly before its commission.

The information alleged evident premeditation as an aggravating circumstance and the lower court, although it imposed the penalties of two reclusion perpetuas only, noted that evident premeditation, aside from treachery, attended the killing of the deceased spouses.

Evident premeditation is not present in the case at bar. There is no direct proof offered by the prosecution to show when Beralde meditated and reflected upon his decision to kill the spouses and the time that had elapsed before his plan was carried out.⁴² His admission that he was at Barrio Anggad at 6:00 p.m. is not a sufficient indication of the time when he made plans or sought the deceased spouses to accomplish his evil scheme. Furthermore, the mere fact that the accused waited for his victims just before the attack is not sufficient to sustain a finding of evident premeditation, in the absence of proof that he had been lying in wait for a substantial period of time.⁴³ Besides, Pat. Bringas testified that when he met Beralde he found no weapon on his person.

To appreciate the circumstance of evident premeditation, it is necessary to establish the following: (1) the time when the offender determined to commit the crime; (2) act manifestly indicating that the culprit has clung to his determination; and (3) a sufficient lapse of time between the determination and execution to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will had he desired to hearken to its warning.⁴⁴ None the foregoing requisites had been proved by the prosecution.

WHEREFORE, in view of the foregoing, the trial court's judgment is affirmed with the sole modification that accused is guilty of two separate crimes of murder. Appellant is accordingly sentenced to suffer two reclusion perpetuas and to indemnify the heirs of Consolacion in the sum of P12,000 and of Constantino in the same amount. In the service of the two reclusion perpetuas, the forty year limit fixed in Article 70 of the Revised Penal Code should be observed. With costs against appellant.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

[1] Rollo, p. 3.

[2] T.S.N., April 11, 1969, pp. 23-24; 34; 37-38; July 16, 1969, pp. 42-55; July 23, 1969, pp. 100-102; and 106.

[3] Id., July 16, 1969, pp. 57-58; July 22, 1969, p. 78; July 23, 1969, pp. 94-99; 103 and 105.

[4] Id., Id., pp. 59-61; 72-73; Id., pp. 82-85; Exhibit "I".

[5] Id., Id., pp. 62-68; 70-71; Id., pp. 79-80; 86-87; 89-90; May 19, 1970, pp. 4-9; 12-13; 26-28.

[6] Id., Id., pp. 67; 69-70; May 19, 1970; pp. 11-15, Exh. "H".

[7] Id., July 22, 1969, pp. 77-78; July 23, 1978, pp. 95-96.

9 Records, Exhibit "H", p. 7.

10 Id., Exhibit "A", p. 37.

11 Id., exhibit "C", p. 187.

12 Id., p. 1.

13 Id., pp. 19-34.

14 Id., pp. 37-41.

15 Id., p. 111.

16 Id., pp. 46-47; 120-122.

17 Id., p. 144.

18 Id., p. 158.

19 Decision of the CFI of Abra, pp. 56-57.

20 Brief for Appellant, pp. 1-2.

21 Id., pp. 26-49.

22 Id., pp. 20-36.

23 Id., pp. 14-19.

24 Id., pp. 49-55.

25 Id., pp. 56-58.

26 Id., pp. 36-43.

27 Decision of the Court of First Instance of Abra, p. 37.

28 Id., p. 38.

29 Id., pp. 56-58.

30 T.S.N., April 11, 1969, pp. 63, 68, 73, July 22, 1969, pp. 79-80, 83, 87-88, 90, May 19, 1970, pp. 6-8, 10-11.

31 Id., July 23, 1969, pp. 97-103; May 19, 1970, pp. 17-22.

32 Filed by Hon. Felix O. Antonio, now Associate Justice of the Supreme Court, then Solicitor General assisted by Assistant Solicitor General Hector C. Fule and Solicitor General Santiago M. Kapunan.

33 Id., pp. 15-16.

34 T.S.N., May 19, 1970, pp. 37-38.

35 Brief for Appellant-Defendant, pp. 14-19.

35 Brief for the plaintiff-appellee, pp. 13-14.

36 Decision of the CFI of Abra, p. 56.

37 T.S.N. April 11, 1969, pp. 23-24 and 37-39.

38 Id., July 16, 1969, pp. 45-46.

39 Id., Id., pp. 53-55.

40 Id., April 11, 1969, p. 23.

41 People v. Echaluze, et al., L-29776, August 27, 1975, 66 SCRA 221; People v. Undong, et al., L-32641, August 29, 1975, 66 SCRA 387; People v. Tizon, et al., L-29724, August 29, 1975, 66 SCRA 372; People v. Catalino, L-25403, March 15, 1968, 22 SCRA 1091; People v. Curiano, L-15256-57, October 31, 1963, 9 SCRA 323; People v. Enot, L-17530, October 30, 1962, 6 SCRA 325.

42 See: People v. Roncal, L-26857-58, October 21, 1977, 79 SCRA 509; People v. Tizon, supra; People v. Bodoso, L-30450-51, September 30, 1974, 60 SCRA 61.

43 U.S. v. Buncad, 25 Phil. 539.

44 People v. Lim, L-34397, L-34398 and L-34399, 71 SCRA 249, June 19, 1976; People v. Bodoso, supra; People v. Manangan, L-32733, September 11, 1974, 59 SCRA 31; People v. Ardisa, L-29351, January 23, 1974, 55 SCRA 245; People v. Diva, et al., L-22946, April 29, 1968, 23 SCRA 332.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.