

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RAFAEL DALUSAG, PRIVADO DALUSAG, JORGE GOLFO, MAXIMO
GOLFO, CATALINO TAFALLA, BERNABE TAFALLA, AND PERFECTO
RAMOS, DEFENDA...**

G.R. No. L-38988. October 31, 1984

Ponente: CONCEPCION JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e3a311e01719/>

CONCEPCION JR., J.:

Mayor Rafael Dalusag, Chief of Police Privado Dalusag, Jorge Golfo, Catalino Tafalla, Maximo Golfo, Perfecto Ramos, Teodoro Golfo and Bernabe Tafalla, all of General Aguinaldo, Cavite, were charged with murder in the Court of First Instance of Cavite for the killing of Fausto Hernandez, committed as follows:

"That on or about May 23, 1970, at Barrio Batas, Municipality of General Aguinaldo, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the accused Jorge Golfo, Teodoro Golfo, Maximo Golfo, Catalino Tafalla and Bernabe Tafalla, who are all armed with firearms, in company with their co-accused Mayor Rafael V. Dalusag, Perfecto Ramos and Chief of Police Privado Dalusag, all of them conspiring and confederating together and mutually helping one another, with intent to kill, with the use of motor vehicle, with treachery and evident premeditation, and taking advantage of superior strength and of their official position, did, then and there, willfully, un-lawfully and feloniously, shoot and fire upon one FAUSTO HERNANDEZ, hitting him in various parts of his body which caused his death." [1]

When arraigned, all the accused entered a plea of not guilty except Teodoro Golfo who died on August 26, 1972 (Death Certificate, p. 103, Records) and Bernabe Tafalla whom the defense represented as having also died.

After due trial, the Court of First Instance of Cavite rendered a decision the dispositive portion of which reads as follows:

"WHEREFORE, the Court finds the accused RAFAEL DALUSAG, PRIVADO DALUSAG, JORGE GOLFO, PERFECTO RAMOS, CATALINO WALLA, and MAXIMO GOLFO guilty beyond rea-sonable doubt of murder qualified by treachery, and there being no modifying circumstances present, here-by sentences them to reclusion perpetua, with the accessory penalties prescribed by law; to indemnify jointly and severally the heirs of Fausto Hernandez in the sum of P12,000.00; and to pay the costs propor-tionately.

"SO ORDERED." [2]

From the judgment, the accused interposed the present appeal.

The facts, as stated in the People's Brief, are as follows:

"On May 23, 1970, at or about 8:00 o'clock in the morning, Leonora Glorioso was on her way to bring break-fast to her husband, Fausto Hernandez, who was then em-ployed as security guard at the sugarcane plantation located at Batas, General Aguinaldo, Cavite (pp. 4, 17, tsn, April 6, 1973). The said plantation was adminis-tered by Mayor Rafael Dalusag although the same belonged to Ciriaco Montano (p. 5, tsn, April 6,

1973).

"While Leonora was on the southern portion of the plantation, she saw two (2) Toyota jeeps colored red and white, respectively, arrive at that place (pp. 6, 13, tsn, April 6, 1973).

"At a distance of around 50 arms-length from her husband, Leonora and Julian Hernandez saw Jorge Golfo, Teodoro Golfo, Maximo Golfo, Bernabe Tafalla and Cata-lino Tafalla, all armed with long firearms, approach her husband who was picking up fertilizer bags (pp. 7, 9, tsn, April 6, 1973; pp. 22, 23, 27, tsn, May 17, 1973). Then, Leonora heard Jorge telling her husband Fausto to approach their group but when her husband was about two arms-length away from the group, Jorge Golfo, without any warning, suddenly fired successively at her husband with a carbine, hitting him on the chest, breast, left side of the body and back of the head (pp. 8, 14, tsn, April 6, 1973; p. 17, tsn, May 7, 1973). The other members of the group, however, fired their firearms in the air (p. 15, tsn, April 6, 1973).

"On the other hand, Mayor Rafael Dalusag, also armed and Perfecto Ramos remained seated all along in-side the red Toyota jeep while Chief of Police Privado Dalusag was inside the white Toyota jeep, watching the happening (pp. 12, 16, tsn, April 6, 1973; pp. 16, 21, 23, tsn, May 17, 1973).

"When Leonora saw that her husband was shot, she dove and laid prone on the ground (p. 14, tsn, April 6, 1973). Before the group left, Jorge admonished those present not to report the incident or else he would also kill them (p. 20, tsn, May 17, 1973).

"When the two (2) Toyota jeeps bearing the group had left, Leonora approached her husband and shouted for help (p. 42, tsn, April 13, 1973; p. 12, tsn, May 5, 1973). Julian Hernandez and Celedonio Binauhan who were both at the coconut plantation came to her succor and they brought the lifeless body of the victim to their residence which was about one kilometer away from the plantation (pp. 4, 46, tsn, April 13, 1973; pp. 13, 14, tsn, May 25, 1973).

"Dr. Natalia P. Gloriani, the Municipal Health Officer of General Aguinaldo, Cavite, conducted a post mortem examination of the deceased at about 10:00 o'clock in the morning of May 24, 1970. According to her find-ings, (Exh. 'A'), the victim sustained the following wounds, to wit:

"Gunshot wound –

"Entrance - Cheek - 2 inches x 1 inch elongated wound with contusion collar 0.5 cm. wide at its inferior border pointing upward the skull producing fracture of the skull resulting to removal of the brain tissue and right eyeball.

"Scalp - 6 in dm. irregular wound with comminuted fracture of the frontal and parietal bone (exit).

"Entrance - Left arm, lower third - a circular wound through and through 1 cm. in diameter with contusion collar .3 cm. wide at its superior border from lateral to medial aspect of the left arm involving skin and soft tissues.

"Entrance - Chest - a circular wound 1 cm. in diameter with contusion collar .3 cm. wide at its superior border at the mid-axillary line of the level of the 7th ICS 115 cms. from the left heel with a depth of 2 inches directed medially and downward penetrating the chest cavity towards the abdomen with an exit to the right iliac region producing a fracture of the iliac bone with a circular, irregular wound 3 inches in diameter 96 cms. from the right heel.

"Probable organs involved - left lung, liver and right kidney.

"Forearm; right - an irregular wound 1.5 inches in diameter located in the forearm, distal portion with comminuted fracture of the radius and ulnar bone, right.

"According to her findings, the cause of death of the victim was: 'Gunshot wound, multiple, head, chest, abdomen and arm; cerebral brain tissue injuries and severe hemorrhage.'"[3]

The accused interposed the defense of alibi alleging that they were somewhere else when the shooting took place.

Mayor Rafael Dalusag testified that he was in his house at the poblacion of General Aguinaldo, Cavite, at the time the shooting incident happened (pp. 27-28, tsn, March 22, 1974). Pat. Perfecto Ramos and Pat. Jorge Golfo also testified that they were at the mayor's house at the time of the incident (p. 6, tsn, March 12, 1973; pp. 25-29, tsn, Jan. 23, 1974). Dr. Vicente Glorioso and Francisco Catillo corroborated the testimonies of the above-named accused-appellants. Pat. Jorge Golfo also presented his niece Ceniza Golfo to bolster his alibi.

Chief of Police Privado Dalusag testified that at around 9:00 o'clock in the morning of May 23, 1970, he was walking along the road in front of the house of Mayor Dalusag carrying poultry feeds (p. 3, tsn, Dec. 18, 1973). Defense witnesses Casimera Reyes and Francisco Vida corroborated his testimony.

Maximo Golfo and his wife Anaclea Golfo were one in testifying that in the morning of the incident in question, Maximo was planting palay on his farm in Sitio Lingay, General Aguinaldo which is five kilometers away from the place of the incident (pp. 3-4, tsn, Feb. 15, 1974; p. 6, tsn, Feb. 12, 1974).

Pat. Catalino Tafalla upon the other hand testified that he was on duty at the municipal building of General Aguinaldo from 8:00 o'clock in the morning of May 22, 1970 to 8:00 o'clock in the morning of May 23, 1970 and presented in court the police blotter to support his claim (pp. 51-54, tsn, March 12, 1974).

Accused-appellants' defense of alibi is without merit. The house of Mayor Dalusag in the Poblacion and Barrio Batas where the incident in question happened are both in the town of General Aguinaldo. It is not therefore physically impossible for the accused-appellants Rafael Dalusag, Perfecto Ramos, Jorge Golfo and Privado Dalusag to have been at the scene of the crime at the time of the incident. Defense witness Simeon Marquez testified that Barrio Batas is about 10 kilometers from the poblacion of General Aguinaldo. He further stated that fast foot travel time between the two points is about one hour, more or less, and a jeep travelling fast can negotiate the distance in about thirty minutes using the poorly maintained road (pp. 123-126, tsn, August 10, 1973).

The trial court also correctly rejected the defense of alibi interposed by the accused-appellants Maximo Golfo and Catalino Tafalla. As the Solicitor General properly observed:

"x x x the possibility that he left his plantation to be with the other accused in killing Fausto Hernandez could not altogether be eliminated considering that it is of common knowledge that the distance of five kilometers between the two places could be negotiated in less than twenty minutes if one takes any vehicle as means of transportation.

"x x x. There is no physical impossibility for him to have left the municipal building before 8:00 o'clock in the morning of May 23, 1970 to participate in the killing of Fausto Hernandez. While it is true that the police blotter (Exh. 1) was presented to show his hours of duty, it is equally true as correctly found by the lower court that there is no procedure in the closing of entries in the blotter for a certain day. The corresponding page simply left blank making it easy to make insertions of any entry. The entries, therefore, in the said police blotter are unreliable. (People v. Tatlonghari, L-22094, March 28, 1969, 27 SCRA 726)."[4]

Well-settled is the rule that for the defense of alibi to prosper, it is not enough to prove that the accused were somewhere else when the crime was committed but it must likewise be demonstrated that it was physically impossible for them to have been at the scene of said crime at the time of its commission (People vs. Mercado, 97 SCRA 232).

Furthermore, the defense of alibi cannot prevail over positive identification of the accused by the prosecution

witnesses herein considering that the former are town officials and law enforcers of General Aguinaldo and are the townmates of the prosecution witnesses.

Besides, it is admitted that the accused were at the scene of the crime in the morning in question, allegedly to investigate the shooting incident.

Moreover, there is no animosity nor ill-will between the prosecution witnesses and the accused for them to testify falsely against the accused. In fact it was Mayor Dalusag who recommended the deceased to his job in Cavite Farms Corporation a few weeks before his death. There was therefore no reason for the prosecution to implicate the accused-appellants for the killing of the deceased Fausto Hernandez if it were not true. The claim of the accused-appellants that the complaint against them was initiated by Melencio Belostrino, the political opponent of Mayor Dalusag was denied by the latter in his rebuttal testimony.

The appellants also dispute the veracity of the charge against them since the shooting incident was reported to the police authorities after the lapse of 19 months. This failure was properly explained by the prosecution witnesses particularly Julian Hernandez who testified that he did not report the matter to the police authorities because he was afraid of the accused-appellants who are very influential in their town, the accused Rafael Dalusag being town mayor and Privado Dalusag, the Chief of Police and the others were members of the police force (p. 9, tsn, May 17, 1973). Witness further said that because of said fear, he left General Aguinaldo and lived in Quezon City since then (p. 10, tsn, May 17, 1973).

Accused-appellants Privado Dalusag, Jorge Golfo, Catalino Tafalla and Maximo Golfo also claim that they were denied a fair trial before an impartial judge amounting to the denial of their constitutional rights to due process when the lower court allowed itself to be influenced by the findings of the Circuit Criminal Court in the preliminary investigation and evidence received ex parte.

Said claim is untenable. A careful examination of the records shows that the accused had been given every opportunity to present their side and the conviction of the accused-appellants is based on the evidence presented during the trial of the case. While the findings of facts of the Circuit Criminal Court in its preliminary investigation may be substantially the same as those of the lower court, the similarity should not be taken as proof that the trial judge relied wholly on the findings of the Circuit Criminal Court but as proof that the prosecution witnesses stated the truth during the preliminary investigation and at the trial of the case.

With respect to the finding of the lower court that conspiracy attended the commission of the crime, the accused-appellants Rafael Dalusag and Perfecto Ramos also claim that their mere presence at the scene of the crime without any active participation therein, is not enough for purposes of conviction.

The contention is without merit. There is conspiracy where several accused by their acts aimed at the same object, one performing one part and another performing another part so as to complete it with a view to the attainment of the same object, and their acts, though apparently independent are in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments.

In the instant case, the record shows that the accused went together to the scene of the crime by riding on two Toyota jeeps. After having shot the victim, all of them boarded the two Toyota jeeps and left the scene of the crime together. While the accused Jorge Golfo was the one who shot the victim, his co-accused, Maximo Golfo, Catalino Tafalla, Teodoro Golfo and Bernabe Tafalla fired their guns into the air to frighten the sugarcane planters who were then around, and the accused Rafael Dalusag, Privado Dalusag and Perfecto Ramos remained seated in their Toyota jeeps supervising the acts of the other accused. As the trial court said, "it is highly improbable that Mayor Dalusag, Chief of Police Privado Dalusag and Deputy Chief of Police Perfecto Ramos would be in the

company of Pat. Jorge Golfo, Pat. Catalino Tafalla, Maximo Golfo, Pat. Teodoro Golfo, and Pat. Bernabe Tafalla, without being aware of the criminal intention of Jorge Golfo. Their presence at the scene of the crime with the armed men evinced culpable association which crystalized into action when they lent moral assistance not only to Jorge Golfo but also the latter's companions. Surely, the latter must have been encouraged to commit the crime by the mere presence, if not upon the direct orders, of no less than the mayor himself and his Chief of Police and Deputy Chief of Police. They helped in the commission of the offense not only by way of moral aid but also by exerting moral ascendancy over the rest of conspirators as to move them to executing the conspiracy." [5]

The accused-appellants are guilty of murder, qualified by treachery and attended by the aggravating circumstances of the use of motor vehicles and by a band. With no mitigating circumstance, the maximum penalty of death provided in Art. 248 of the Revised Penal Code should be imposed upon each of the accused-appellants. However, for lack of the required number of votes to impose the death penalty, accused-appellants are hereby sentenced instead each to suffer the penalty of reclusion perpetua.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED** with the modification that the accused-appellants are ordered to indemnify jointly and severally, the heirs of the deceased Fausto Hernandez in the amount of P30,000.00. With costs against the appellants.

SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De la Fuente, and Cuevas, JJ., concur.

Aquino, J., no part.

[1] p. 1, Records.

[2] p. 43, Rollo.

[3] pp. 2-5, Brief for the Appellee.

[4] pp. 10-11, Brief for the Appellee.

[5] p. 42, Rollo.

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.