

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELESTINO VILLACORES, ROMULO LIRIO, PEDRO DUCAY AND ABIS GAMONGAN, DEFENDANTS-APPELLANTS.

G.R. No. L-35969. May 16, 1980

Ponente: ANTONIO, J.

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ANTONIO, J.:

Automatic review of the judgment of the Circuit Criminal Court, Pasig, Rizal, imposing the death penalty upon Celestino Villacores,[1] Romulo Lirio, Pedro Ducay and Abis Gamongan.

In an Information filed by the Special Prosecutor on October 10, 1972, the afore-mentioned appellants were charged with Murder and Multiple Frustrated Murder, as follows:

"That on or about May 4, 1972, at the NBP, Muntinlupa, Rizal, Philippines, and within the jurisdiction of this Honorable Court the above named accused while then confined at the said institution conspiring, confederating and helping one another did then and there wilfully, unlawfully, and feloniously, with intent to kill, with evident premeditation and treachery assault, attack and stab Prisoner ROMEO DOMINGO, No. 75132-P, thereby inflicting upon the latter multiple stab wounds in the different parts of the body such wounds necessarily produced his death and simultaneously inflicting upon RODOLFO ANDAYA, No. 47015-P, ANTONIO DE LA CRUZ, No. 50108-P and ARTURO ALICIA, No. 61739-P all sentenced prisoners in the same institution, stab wounds in the different parts of their bodies, performing all the acts of execution which would have produced the crime of murder as a consequence thereof, but nevertheless did not produce it by reason of causes independent of their will, that is, by the timely and able defense offered by those injured and the equally, timely assistance of the Prison Guards which prevented their death."

Upon arraignment on October 27, 1972, the afore-mentioned four accused, with the assistance of counsel de oficio, pleaded guilty. The Court informed the appellants in Tagalog, a dialect known to them, of the consequences of their plea of guilty and that because of the nature of the crime, the impossible penalty is death. They, however, reiterated their plea of guilty and expressed their readiness to accept the penalty to be imposed upon them no matter how grave it may be. Hence, the trial court, in view of the voluntary and spontaneous confession of guilt made by the accused Celestino Villacores, Romulo Lirio, Pedro Ducay and Abis Gamongan, stated that it found them guilty beyond reasonable doubt of the crime of Murder pursuant to Article 248 of the Revised Penal Code as charged in the Information and sentenced them to suffer the penalty of death; to indemnify the heirs of the victim in the amount of P12,000.00, jointly and severally; to pay jointly and severally P10,000.00 as moral damages and another P10,000.00 as exemplary damages; and to pay their proportionate share of the costs. However, the trial court, "in consonance with the doctrine laid down by the Supreme Court in *People v. Epifanio Flores*,"[2] ordered the Special Prosecutor "to present evidence to determine the degree of culpability of the accused."

Pursuant to the afore-mentioned Order, the Special Prosecutor presented evidence on October 28, 1972 and December 9, 1972. After the prosecution had rested its case, the trial court issued an Order, in effect affirming

the prisoners' sentence of death and directed the Clerk of Court to forward the complete records of this case to the Supreme Court upon transcription of the stenographic notes taken by the stenographers within a reasonable period of time.

The counsel de officio contends in his brief for appellants that the court a quo, in convicting the accused, failed to observe the necessary pre-caution to ensure that when the accused pleaded guilty, they really and truly understood and comprehended the meaning, full significance and consequences of their plea. He contended that although the court ordered the presentation of evidence to establish the guilt and degree of culpability of the accused, after he pronounced his judgment, the evidence presented "could not have fulfilled the function of establishing the guilt or degree of culpability of the accused. It merely confirms the judgment previously entered." The Solicitor General, in substance, concurs with the foregoing observation and recommends that the decision under review be vacated and the case remanded to the lower court for further proceedings.

We find these contentions untenable. To preclude any doubt that there was mistake or misunderstanding on the part of the accused as to the nature of the charges to which they pleaded guilty, the court a quo precisely ordered the prosecution to present evidence "to determine the culpability of the accused." On October 28, 1972, the prosecution presented testimonial and documentary evidence to prove the guilt of the four accused.

There is no question that the purpose of the presentation of evidence after the plea of guilty in capital offenses is to preclude any room for "reasonable doubt in the mind of either the trial court or this Court, on review, as to the possibility that there might have been some misunderstanding on the part of the accused as to the nature of the charges to which he pleaded guilty"; and to ascertain the circumstances attendant to the commission of the crime "which justify or require the exercise of a greater or less degree of severity in the imposition of the prescribed penalties." [3] We have suggested that the trial courts should adopt such procedure in *People v. Busa*, [4] for apart from the circumstance that such procedure may remove any doubt that the accused fully understood the consequences of his plea is the fact that the evidence taken thereon is essential to the fulfillment by this Court of its duty of review of automatic appeals from death sentences.

"Moreover, since there is no law prohibiting the taking of testimony after a plea of guilty, where a grave offense is charged, this Court has deemed such taking of testimony the prudent and proper course to follow for the purpose of establishing the guilt and the precise degree of culpability of the defendant. This procedure, when conscientiously applied and followed, will leave no room for doubt that there was mistake or misunderstanding on the part of the accused as to the nature of the charges to which he pleads guilty.

"Further, the taking of testimony, notwithstanding a plea of guilty, is essential to the fulfillment by this Court of its duty of review of automatic appeals from death sentences. To illustrate this point, in *U. S. vs. Jamad*, the testimonies received by the trial court following the plea of guilty by the accused enabled this Court to modify the judgment by striking down the two aggravating circumstances of evident premeditation (premeditation concida), and abuse of confidence alleged in the information. This Court's findings showed that the accused could not have intended their inclusion in his plea of guilty. Surely, records which merely sketchily declare that the information was read to the accused and that the latter 'freely, voluntarily and spontaneously entered the plea of guilty', do not tell the whole story. They deny us full opportunity to review the cases fairly and intelligently." [5]

In the case at bar, it has been sufficiently established by the evidence that at about 11:30 o'clock in the morning of May 4, 1972 inside the New Bilibid Prisons, a prisoner, Romeo Domingo, who was on his way to Gate IV for a visit, was stabbed, while three (3) other prisoners, Arturo Alicia, Rodolfo Andaya and Antonio de la Cruz, members of the "Batang City Jail Gang", "Batang Cebu Gang", and "Sigue-Sigue Sputnik Gang", respectively, were similarly attacked and stabbed while they were in leg-irons, and stationed at the alley adjoining the control gate of the said penitentiary. Romeo Domingo died at the New Bilibid Prisons Hospital at about 8:10 p.m. on May

5, 1972. Tolentino Avelina of the Investigation Section of the National Penitentiary testified that he was one of those assigned to investigate the aforesaid incident. In that investigation, appellants admitted to him that because of rivalry among their gangs they attacked and stabbed the afore-mentioned victims. To this effect, appellant Celestino Villacores, 29 years of age, married, of Cabugao, Ilocos Sur, declared before the investigator, thus:

"1.

T. -

Kung gayon ay sabihin mong muli sa akin ang tunay mong pangalan at iba pang mga bagay-bagay na mapagkikilanlan sa iyong pagkatao?

S. -

Celestino Villadores po, 29 na taong gulang, may asawa, dating naninirahan sa Lumagui, Cabugao, Ilocos Sur at sa kasa-lukuyan ay isa nang bilanggo dito sa Pambansang Piitan, matapos na mahatulan ng Hukumang Unang Dulugan ng Vigan, Ilocos Sur sa kasalanang 'Homicide'.

2.

T. -

Kailan ka pa nadala dito sa Pambansang Piitan?

S. -

Mula pa po noong 1965.

3.

T. -

Saang brigada ka nakahimpil sa kasaluku-yan?

S. -

Sa XIII-A po.

4.

T. -

May pangkat ka bang kinaaaniban?

S. -

Mayroon po, GIG, Genuine Ilocano Gang po.

5.

T. -

Sang-ayon sa report ng Officer of the Day ay isa ka sa apat na bilanggong nanaksak sa may pasilyong malapit sa Control no-ong Mayo 4, 1972, bandang alas 11:30 ng umaga. Ano ang masasabi mo tungkol dito?

S. -

Totoo po.

6.

T. -

Sino naman ang bilanggong sinaksak mo noon?

S. -

Si Andaya po iyong itinuro ko riyan ka-nina na may kadena noong saksakin ko. (Affiant is referring to pris. Rodolfo Andaya.)

7.

T. -

Ilang beses mo siyang sinaksak?

S. -

Isang beses lang po, pero nasangga niya ang kamay ko at tumalsik ang matalas ko at hindi ko siya natamaan.

8.

T. -

Maliban kay Rodolfo Andaya sinu-sino pa ang sinaksak mo noon?

S. -

Wala na po.

9.

T. -

Sa mga kasamahan mong nanaksak nakita mo ba kung sino ang sinaksak nila?

S. -

Hindi ko na po napansin.

10.

T. -

Nasaan na ang matalas na ginamit mo noon sa pananaksak?

S. -

Lumaglag po sa semento malapit sa lugar ni Andaya.

11.

T. -

Sa aking mesa ay may apat na matalas. Ma-ituturo mo ba sa akin kung alin riyan ang matalas mong ginamit sa pananaksak noong Mayo 4, 1972?

S. -

Iyan pong maliit sir, (Affiant pinpoint-ed to one improvised deadly weapon, about 12-1/4 inches long and an

inch wide with white piece of cloth tied at the handle).

12.

T. -

Sinu-sino naman ang mga kasama mong nanaksak noon sa pasilyo noong Mayo 4, 1972?

S. -

Iyong tatlo po, sina Pedro Ducay, Abis Gamongan at saka si Romulo Lirio.

13.

T. -

Iyong mga matalas na ipinanaksak nila kilala mo ba?

S. -

Hindi po, dahil hindi ko matandaan sa brigada lamang nila ipinakita sa akin.

14.

T. -

Kailan ninyo binalak na manaksak sa may pasilyo?

S. -

Noong gabi ng Mayo 3, 1972 sa brigada namin sa XIII-A bandang alas 10:00 ng gabi humigit kumulang at kaming apat nina Lirio, Gamongan at Ducay ang nag-usap--usap. Si alias Boy Ricafort si Romulo Lirio po ang namuno sa usapan namin na manaksak kami.

15.

T. -

Totoo ba na nag-away kayo nitong si Romulo Lirio noong gabi ng Mayo 3, 1972 bago kayo nag-usap-usap na manaksak sa pasilyo?

S. -

Totoo po dahil sa sinabi ko sa kanya na bakla siya at nagalit siya.

16.

T. -

Papaano kayo nakalabas sa XIII-A?

S. -

Dumaan po kami sa butas ng XIII-A malapit sa building construction iyong brigadang katabi ng banda.

17.

T. -

Mga anong oras kayo lumabas ng XIII-A?

S. - Makarelyebo po ng pang-araw noong Mayo 4, 1972.

18.

T. -

Bakit ninyo sinaksak iyong mga kastigado na nasa may pasilyo?

S. - Dahil po sa kalaban namin sa pangkat ang mga nasa pasilyo na kastigado." (Exhibit "H")

Romulo Lirio, 24 years old, single, of Sto. Tomas, La Union, also admitted his criminal compli-city, thus:

"4.

T. -

May pangkat ka bang kinaaaniban?

S. -

Mayroon po, GIG Gang po (Genuine Ilocano Gang).

5.

T. -

Sang-ayon sa report ng Officer of the Day ay isa ka sa apat na kapangkat mo sa GIG ang siyang nanaksak ng mga bilanggo sa may pasilyo malapit sa Control Gate noong bandang alas 11:30 ng umaga ng Mayo 4, 1972. Ano ang masasabi mo tungkol dito?

S. -

Totoo po.

6.

T. -

Sinu-sino naman ang nasaksak mo nang uma-gang iyon ng Mayo 4, 1972?

S. -

Iyon pong dalawang kadenado iyon pong nandito kanina sa Tanggapang ito na iti-nuro ko sa inyo. (Affiant referred to prisoner Rodolfo Andaya and Arturo Ali-cia as the prisoners stabbed by him last May 4, 1972.)

7.

T. -

Ilang beses mong sinaksak itong si Rodolfo Andaya?

S. -

Maraming beses po pero hindi ko na po ma-tandaan.

8.

T. -

Saan-saang parte ng katawan mo tinamaan itong si Rodolfo Andaya?

S. -

Sa dibdib po at sa magkabilang baraso po at kamay.

9.

T. -

Ano ang ginawa nitong si Andaya noong siya ay kasalukuyang sinasaksak mo na?

S. -

Tumayo po siya at saka nanangga po at pilit pong inaagaw ang matalas ko.

10.

T. -

Itong si Arturo Alicia, ilang beses mo siyang sinaksak?

S. -

Dalawang beses po sa dibdib niya at saka sa hita.

11.

T. -

Ano ang ginawa nitong si Arturo Alicia nang siya ay sinaksak mo?

S. -

Tumayo po at gusto ring maagaw ang mata-las ko pagkatapos ay tumakbo na ako pag-kat may sumaksak sa baraso ko siya po iyong nakaupo sa upisinang ito ngayon (Affiant pinpointed pris. Antonio de la Cruz as the fellow who stabbed his right arm.) At pagkatakbo ko ay isinurender ko naangmatalas ko kay Commander Tutaan at kay Mr. Muldong.

12.

T. -

Sa aking mesa ay may apat na matalas, maituturo mo ba sa akin kung alin diyan ang matalas mong ipinanaksak kina Rodolfo Andaya at Arturo Alicia noong Mayo 4, 1972?

S. -

Opo sir, iyan po (Affiant pinpointed to one improvised deadly weapon single bla-ded, about 14-3/4 inches long with white cloth tied at the handle).

13.

T. -

Ano itong mapulang mantsa sa dulo ng ma-talas mong ito?

S. -

Kalawang po at saka dugo po nang sinak-sak ko at saka dugo ko.

14.

T. -

Sinu-sino naman ang mga kasama mong na-naksak noon sa pasilyo?

S. -

Apat po kami sir, sina Celestino Villa-dores, Abis Gamongan, Pedro Ducay at saka ako.

15.

T. -

Sinu-sino naman ang nakita mong nasaksak nitong tatlo mong kasama?

S. -

Hindi ko na nalaman dahil sa may sina-saksak ako ng mga oras na iyon ng Mayo 4, 1972.

* * * * *

17.

T. -

Sino ang nag-utos sa inyo manaksak noon sa pasilyo?

S. -

Wala po kami-kami po lamang ang nag-usap.

18.

T. -

Kailan naman ninyo pinag-usapang manak-sak?

S. -

Bandang alas 10:00 po humigit kumulang noong gabi ng Mayo 3, 1972 at doon po kami nag-usap sa loob ng aming brigada sa XIII-A at ang napagkasunduan namin ay ang mga kastigadong may kadena na nasa pasilyong malapit sa Control Gate ang aming sasaksakin. At si Celestino Villa-dores po ang namuno sa pananaksak naming ito.

19.

T. -

Sino naman ang nagsimula sa inyo upang pag-usapan ninyong manaksak ng kastigado na nasa pasilyo?

S. -

Si Villadores po, dahil nagkagalit kami ni Villadores sa loob ng brigada namin sa XIII-A noong bandang alas 9:00 ng gabi ng Mayo 3, 1972 pagkat sinabi niya na bakla ako at nagkasagutan kami hanggang sa hinamon ko siya nang saksakan. Ang sabi niya ay huwag tayong maglaban kala-ban na lamang natin ang ating saksakin at sinabihan ni Villadores si Abis Ga-mongan na mananaksak kami at si Gamongan naman ay pinagsabihan si Pedro Ducay hanggang sa ng pumayag na sila ay nag-usap-usap na kami sa loob ng kubol namin sa XIII-A noong gabi ng Mayo 3, 1972.

20.

T. -

Iyong mga matalas ng mga kasama mong na-naksak kilala mo?

S. -

Opo, iyan po ang matalas ni Celestino Villadores (Affiant pinpointed to one imp. deadly weapon about 12-1/2 inches long and an inch wide with white piece of cloth tied at the handle), iyan po naman ang matalas ni Pedro Ducay, (Affiant pinpointed to one improvised deadly weapon single bladed about 15-1/4 inches long and 3/4 of an inch wide with green plastic tied at the handle) at iyan po naman ang matalas ni Abis Gamongan, (Affiant pinpointed to one improvised deadly weapon about 15 inches long semi-cris type double bladed with white piece of cloth tied at the handle).

21.

T. -

Papaano mo nakilala ang mga matalas nila na ginamit nila sa pananaksak ninyo sa may pasilyo noong Mayo 4, 1972?

S. -

Pagkat bago kami lumabas ng brigada noong umaga ng Mayo 4, 1972 para manaksak ay nakitakona ang mga matalas nilang iyan.

22.

T. -

Papaano naman kayo nakalabas ng brigada XIII-A may calling ba kayo?

S. -

Wala po, dumaan po kami sa butas ng tagi-liran ng XIII-A at nagtuloy kami sa building construction pagkatapos ay nag-tuloy na kami sa pasilyo hanggang sa ma-naksak na kami.

* * * * *

24.

T. -

May isa pa akong katanungan, bakit ninyo sinaksak ang mga kastigado na nasa pa-silyo?

S. -

May atraso po sila sa pangkat naming GIG dahil sa sinaksak nilang pangkat Sputnik itong si Esposo matagal na po noong 1971." (Exhibit "I")

Pedro Ducay, 29 years old, single, of San Manuel, Tarlac, also narrated his participation in the incident, thus:

"5.

T. -

Sang-ayon sa report ng Officer of the Day ay isa ka sa mga bilanggong nanaksak doon sa may pasilyong malapit sa Control Gate noong bandang alas 11:30 ng umaga ng Mayo 4, 1972. Ano ang masasabi mo tungkol dito?

S. -

Totoo po.

6.

T. -

Sino namang bilanggo ang nasaksak mo?

S. -

Hindi ko po kilala, wala po sa tatlong bilanggong naririto kanina na kasama sa mga nasaksak ng aking kasamahan noong Mayo 4, 1972.

7.

T. -

Ilang beses mong sinaksak iyong sinasabi mong nasaksak mo na hindi mo kilala?

S. -

Minsan lang po hindi ko po matiyak kung saang parte ng katawan ko siya tinamaan. (Affiant is referring to prisoner Romeo Domingo as testified by Antonio de la Cruz that Ducay stabbed Domingo.)

8.

T. -

Nasaan na ang matalas na ipinanaksak mo noon?

S. -

Naagaw po noong isang 'Sputnik Gang' (Affiant is referring to prisoner Antonio de la Cruz which was pinpointed by him as the prisoner who was able to grab his weapon during this stabbing incident).

9.

T. -

Sa aking mesa ay may apat na matalas ma-ituturo mo ba sa akin kung nariryan ang matalas na ginamit mo noong Mayo 4, 1972?

S. -

Iyan po, (Declarant pinpointed to one improvised single bladed weapon sharp pointed about 15-1/4 inches long and 3/4 of an inch wide with a green color plas-tic wrapped at the handle).

10.

T. -

Sa mga kasamahan mong nanaksak nakita mo ba kung sino ang nasaksak nila?

S. -

Hindi po, dahil kanya kanya kami ng si-nasaksak ng mga oras na iyon.

11.

T. -

Sang-ayon kay Antonio de la Cruz ay si-naksak mo rin siya at naagawan ka niya ng matalas ano ang masasabi mo tungkol dito?

S. -

Totoo po.

12.

T. -

Napaano na iyang sugat mo sa tatlong da-liri mo sa kanang kamay?

S. -

Sinaksak po ni Antonio de la Cruz pagka-agaw niya ng matalas sa akin.

13.

T. -

Sinu-sino ang mga kasama mong nanaksak noong Mayo 4, 1972 doon sa may pasilyo malapit sa Control Gate?

S. -

Sina Abis Gamongan po, si Romulo Lirio, si Celestino Villadores at saka ako po.

14.

T. -

Kailan ninyo binalak na manaksak sa may pasilyo?

S. -

Noong gabi po ng Mayo 3, 1972 sa loob ng XIII-A bandang alas 10:00 humigit-kumu-lang at kaming apat ang nag-usap-usap. At si Villadores ang nagmungkahi na ma-naksak kami dahil sa api ang pangkat na-ming Genuine Ilocano Gang dahil sa lagi nang sinasaksak ng mga kalaban namin sa pangkat ang aming pangkat.

* * * * *

17.

T. -

Sino ang nagyaya sa iyong manaksak?

S. -

Si Villaceres noon din pong gabi ng Mayo 3, 1972.

18.

T. -

Sino ang pinakapuno ninyong nagdala sa inyo ng kayo ay nanaksak na?

S. -

Si Villadores po.

19.

T. -

Papaano kayo nakalabas ng XIII-A?

S. -

Dumaan po sa butas ng aming brigada sa XIII-A.

20.

T. -

Mga anong oras kayo dumaan sa butas ng inyong brigada?

S. -

Pasado alas 8:00 na po ng umaga ng Mayo 4, 1972.

21.

T. -

Saan muna kayo nagtigil nang araw na iyon bago kayo nanaksak sa pasilyo ng araw na iyon?

S. -

Sa barberya po." (Exhibit "J")

Primitivo Arias, of the Investigation Section of the National Penitentiary, also testified that on May 8, 1972, he investigated Abis Gamongan, another prisoner who was also a member of the same gang. In that investigation, Abis Gamongan, 28 years old, single, of Kalinga-Apayao, also admitted that he assisted his companions, Romulo Lirio, Celestino Villacores, and Pedro Ducay in attacking and stabbing the afore-mentioned victims, thus:

"2.

T. -

Kailan ka idinating dito sa Bilibid?

S. -

Noon pa pong 1963.

3.

T. -

Simula noong 1963, ikaw ba ay lumaya na?

S. -

Hindi pa po.

* * * * *

4.

T. -

Sa ngayon, saan ang iyong kinahihimpilang brigada?

S. -

Sa brigada XIII-A po.

5.

T. -

Noong ika-4 ng Mayo 1972, saan ang iyong brigada?

S. -

Sa brigada XIII-A rin po.

6.

T. -

Noong ika-4 ng Mayo na ang iyong brigada ay XIII-A, ikaw ba ay lumabas sa iyong brigada?

S. -

Opo, sir.

7.

T. -

Anong oras ka ng lumabas ng brigada mo?

S. -

Nakarilyebo na po ang pang otso-kuatrong guardiya.

8.

T. -

Papaano ka nakalabas ng brigada mo?

S. -

Nagakyat po ako sa kisame ng 13-A at pagkatapos ay doon sa butas na tagiliran ng 13-A ako lumabas.

9.

T. -

Ilan kayong magkakasama noon?

S. -

Apat, po.

10.

T. -

Sinu-sino kayong apat?

S. -

Ako po, Ducay, Villadores at Lirio (Dec-larant referring to prisoners Pedro Ducay, No. 46744-P, Celestino Villadores, No. 50986-P, and Romulo Lirio, No. 69249-P, all present in this Office).

11.

T. -

Ano ang dahilan at kayo ay nagpilit na makalabas ng inyong brigada?

S. -

Mananaksak po ang usapan namin.

12.

T. -

Sino naman ang pinag-usapan ninyong sasak-sakin?

S. -

Yaon pong mga kadenado sa may pasilyo malapit sa Control Gate na aming kaaway. (Declarant referring to UP prisoners Rodolfo Andaya, No. 47015-P, Arturo Alicia, No. 61939-P, Victor Bangayan, No. 71379--P & others.

13.

T. -

Sang-ayon sa ulat ng O.D., noong ika-4 ng Mayo, 1972, humigit kumulang sa ganap na ika-11:30 ng umaga, ikaw ay kasama nina Romulo Lirio, Celestino Villadores at Pedro Ducay na nanaksak dito sa may pa-silyo sa makalabas ng Control Gate, sa loob ng compound. Ano ang iyong masasabi rito?

S. -

Totoo po, sir.

14.

T. -

Sino naman ang iyong nasaksak?

S. -

Hindi ko po kilala.

15.

T. -

Yaong may mga kadena doon sa pasilyo, kilala mo ba sila?

S. -

Yaon pong dalawang may kadena na nasaksak ay kilala ko. (Declarant referring to prisoners Rodolfo Andaya

and Arturo Ali-cia, both with leg-iron at the time of the incident.)

16.

T. -

Ilang ulit mong sinaksak yaong taong iyong nasaksak na sabi mo ay hindi mo kilala?

S. -

Isang beses lang po.

17.

T. -

Anong ayos noong taong iyong sinaksak ng saksakin mo?

S. -

Nakatayo po.

18.

T. -

Sa iyong palagay, saan mo tinamaan ng saksak yong taong iyong sinaksak?

S. -

Sa may harap po, sa may dibdib.

19.

T. -

Anong uri ng panaksak mong ginamit?

S. -

Double blade pong patalim na matulis na may taling sinirang kamiseta ang pinakahawakan.

20.

T. -

Sa mga patalim na naririto sa ibabaw ng mesa ko, alin diyan ang sa iyong ginamit na panaksak?

S. -

Iyan pong double blade na iyan, matalim at matulis, may taling sinirang kamiseta sa pinakahawakan, kris type (Declarant pointing to an improvised double bladed weapon, sharp and pointed with a wrapped handle, kris type and more than a foot in length.)

21.

T. -

Noong isaksak mo ang iyong patalim sa kita mo o pakiramdam, bumaon ba ng mala-lim sa katawan ng iyong sinaksak?

S. -

Opo, sir.

22.

T. -

Sinasabi mong sa may dibdib mo tinamaan ang taong iyong nasaksak. Sa iyong kuro-kuro, namatay kaya ang taong iyong sinaksak?

S. -

Malamang po sa mamatay.

23.

T. -

Pagkasaksak mo sa taong iyong sinaksak, saan nagtakbo itong taong iyong nasak-sak?

S. -

Nagtakbo po sa may rehas ng harapan ng Control Gate.

24.

T. -

Pagkatapos mong makapanaksak, ano ang iyong ginawa?

S. -

Nagtakbo po ako patungo sa may Kitchen at nasalubong ko si Inspector Robles at Guard Estupin kaya't ako ay pinadapa at kinuha ang patalim kong tangan.

25.

T. -

Yaong kasama mong sina Villadores, Ducay at Lirio, sila ba ay nakasaksak rin?

S. -

Sa pagkaalam ko ay nakasaksak rin sila po.

26.

T. -

Kilala mo ba ang kani-kanilang nasaksak?

S. -

Hindi po, sir.

27.

T. -

Ano ang suot o damit ng iyong nasaksak?

S. -

Hindi ko na po napagalam ang kanyang ka-suotan.

28.

T. -

Ano ba ang iyong 'gang'?

S. -

GIG, po (Declarant referring to Genuine Ilocano Gang).

29.

T. -

Papaano ninyo binalak nina Villadores, Ducay at Lirio ang inyong pananaksak?

S. -

Sa brigada po ay nagkahiyaan sina Villa-dores at Lirio kaya't sila ay naghamunan ng saksakan, subalit kaysa sila ang mag-saksakan dahil sa sila o kami ang isang pangkat ay minabuti na lang namin ang manaksak ng iba at ang napagkasunduan namin ang saksakin yaong nasa pasilyo nga.

30.

T. -

Sino ang pinakapuno ng GIG?

S. -

Si Teryo Valera, po, sir.

31.

T. -

Sa pangyayaring ito, may kinalaman ba itong puno ng inyong pangkat?

S. -

Wala po, sir.

32.

T. -

Inaamin mo ba ang kasalanan mong pana-naksak?

S. -

Opo, sir.

33.

T. -

Ikaw ba ay sinaktan, tinakot, pinilit o pinangakuan ng pabuya upang magbigay ng salaysay?

S. -

Hindi po, sir." (Exhibit "O").

The aforesaid extrajudicial confessions of appellants (Exhibits "H", "I", "J" and "O") were submitted as evidence and admitted without objection on the part of the appellants. In connection with the execution of the afore-mentioned extrajudicial admissions, appellants surrendered to the prison authorities the improvised sharp-pointed weapons which they used against the victims (Exhibits "B", "C", "D" and "E"). The afore-mentioned extrajudicial confessions are admissible in evidence.[6]

Dr. Nario C. Nalagan, Senior Medico-Legal Officer of the NBI who conducted the autopsy on Romeo Domingo, testified that the deceased sustained the following wounds:

"Stab wounds: 1 - 3.0 cms. in size, edges clean cut, medial border sharp, lateral border contused, oriented upwards and medially located at the left upper chest anterior aspect 14 cms. from the anterior median line, 132 cms. from left heel. Directed backwards, downwards and medially thru the 4th inter-costal space into the left thoracic cavity perforating the upper lobe of lung, pericardial sac and penetrating the left ventricle. Depth 14 cms.

2 - 3.0 cms. in size, edges clean cut, upper extremity sharp, lower extremity contused, oriented vertically and located at the left upper chest along the anterior axillary line 18 cms. from the anterior median line, 134 cms. from left heel. Directed backwards, downwards and medially involving soft tissues, non-perforating. Depth 4 cms.

3 - 2.3 cms. in size, edges clean cut, oriented horizontally, located at the left mesogastric region of the abdomen, 6 cms. from the anterior median line, 106 cms. left heel. Directed backwards, downwards and medially thru the anterior abdominal wall and penetrating the left psoas muscle. Depth 8 cms." (Exhibit "A")

He explained that Romeo Domingo sustained three (3) stab wounds, but it was the stab wound on the left chest (Wound No. 1 in Exhibits "A" and "A-2") which caused the death of the victim as it perforated the left chest, the upper lobe of the lung and the left ventricle of the heart. When shown the four (4) improvised weapons which the accused admitted having used in stabbing the victims,[7] he declared that the weapon, Exhibit "D", of appellant Villacores, on the basis of its size and configurations, could have been the weapon used in inflicting the three (3) stab wounds on the chest of the victim.

Dr. Zoraida Achazo Ocampo, physician of the New Bilibid Prisons, also testified that prisoners Rodolfo Andaya, Antonio de la Cruz and Arturo Alicia, all sustained stab wounds. According to her, Arturo Alicia sustained two (2) stab wounds – (a) one-inch wound at the middle third of the right thigh; and (b) another one-inch wound at the mid-scapular line 9th intercostal space; while Rodolfo Andaya suffered four (4) stab wounds – (a) the first was one-half inch x one-half inch to the left of the mid-sternum 4th intercostal space; (b) the second was a 2-1/2-inch stab wound at the forearm, mid portion right; the third was a one-inch stab wound, V-shaped at the middle forearm, left; and (d) the fourth was a one-inch stab wound on the left proximal third forearm, left; while Antonio de la Cruz sustained a one-half inch stab wound on the right index finger. Alicia was confined in the hospital for eight (8) days, while Andaya was hospitalized for five (5) days.

The afore-mentioned extrajudicial confessions of appellants Villacores, Lirio, Ducay and Gamongan (Exhibits "H", "I", "J" and "O"), as corroborated by the evidence of corpus delicti, depict the circumstances surrounding the commission of the crime and demonstrate convincingly that the pleas of guilty made by appellants were not made inadvertently, but with full awareness of the precise nature of the charges and the possible consequences of their judicial admission of guilt.[8] They likewise confirm the existence of conspiracy, revealing that the stabbing was planned and agreed upon by the four accused on the night of May 3, 1972. Necessarily, therefore, they

likewise establish the presence of evident premeditation.[9] Moreover, it can be gleaned from said confessions that the manner of attack employed by the accused was characterized by treachery, considering the element of surprise and the fact that some of the victims were in leg-irons and thus unable to defend themselves.

Considering the foregoing, it is evident that independently of the pleas of guilt entered by the herein appellants, the evidence for the prosecution would have been sufficient to sustain a judgment of conviction. The trial court, therefore, was not remiss in ascertaining that the acceptance of the pleas of guilt satisfied all the requirements of the law.

The only irregularity that may be imputed to the trial judge in the proceedings a quo was in pre-maturely sentencing the accused to suffer the penalty of death, prior to ordering the Special Prosecutor to present evidence to determine the degree of culpability of said accused. As this Court held in *People v. Dumdum, Jr., et al.*:[10]

"The evidence of the prosecution should be presented after the arraignment. The judgment should be rendered and promulgated after the fiscal has presented his evidence and after the trial court has ascertained that the defense is not presenting any evidence."

The irregularity, however, is not of sufficient consequence as to justify the setting aside of the judgment of conviction, in the face of the evidence presented by the prosecution which established the guilt of the appellants beyond reasonable doubt.[11]

It appears appropriate, at this stage, to emphasize to trial judges that when an accused pleads guilty to a capital offense wherein the penalty of death is imposed, they should show clearly in their records that they have not accepted with alacrity his plea of guilty, but adopted the prudent and proper course consistent with the fundamental requirements of fairness and due process of taking testimony for the purpose of establishing the guilt and the precise degree of culpability of the defendants.[12]

Considering that the crime in the case at bar was committed by appellants while serving sentence for a felony for which they were convicted by final judgment, the penalty imposed upon them which is the maximum period of the penalty prescribed by law for the new felony is, therefore, in accordance with law.[13] Article 160 of the Revised Penal Code provides a special aggravating circumstance for quasi-recidivism by imposing the maximum of the penalty for the new offense, and it cannot be offset by any mitigating circumstance.[14]

We cannot ignore however the contributory role played by the sub-human conditions in the penitentiary in the formation of gangs, such as this that preyed like wolf packs on the weak. This consideration and the fact that appellants were under detention for a long time impelled some members of this Court to vote for the imposition of a penalty next lower in degree.

WHEREFORE, the judgment under review is affirmed but for lack of necessary votes, the penalty imposed upon appellants is modified to reclusion perpetua with the accessories provided by law.

SO ORDERED.

Barredo, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and De Castro, JJ., concur.

Teehankee, J., filed a separate concurrence.

Fernando, C.J., concurs with the dissent of Justice Makasiar.

Makasiar, J., dissents in a separate opinion.

Melencio-Herrera, J., took no part.

[1] In his sworn statement (Exhibit "H"), however, the name of this accused appears as CELESTINO

VILLADORES.

[2] L-32692, July 30, 1971, 40 SCRA 230.

[3] *United State v. Jamad*, No. 12678, Dec. 15, 1917, 37 Phil. 305, 316-317.

[4] L-32047, June 25, 1973, 51 SCRA 317.

[5] *Ibid.*, at pp. 320-321.

[6] In *Clemente Magtoto v. Judge Miguel M. Manguerra, et al.*, L-37201-02; *Maximo Simeon, et al. v. Hon. Onofre Villaluz*, L-37424; and *People v. Judge Asaali S. Isnani*, L-38929, all promulgated on March 3, 1975, 63 SCRA 4, and *People v. Porfirio Dumdum, Jr., et al.*, G. R. No. L-35279, promulgated July 30, 1979, this Court ruled that confessions obtained during custodial investigation from an accused without the assistance of counsel, prior to the effectivity of the New Constitution on January 17, 1973, are admissible in evidence.

[7] Exhibit "B" - weapon of Romulo Lirio, single blade, 15-3/4 inches long; Exhibit "C" - weapon of Pedro Ducay, 15-1/4 inches long and 3/4 inch in width, single blade, with green plastic handle; Exhibit "D" - weapon of Celestino Villacores, 12-1/2 inches long, one inch in width, single blade, with handle covered by a piece of white cloth; and Exhibit "E" - Weapon of Abis Gamongan, 15 inches in length, 3/4 inch in width, double blade, semi-cris type.

[8] *People v. Reyes, et al.*, L-19894, May 27, 1966, 17 SCRA 279; *People v. Abrera, et al.*, L-20038, July 28, 1966, 17 SCRA 771, citing *People v. Bantagan*, No. 33045, Aug. 15, 1930, 54 Phil. 834, 841; *People v. Narciso*, L-24484, May 28, 1968, 23 SCRA 844.

[9] *U. S. v. Cornejo*, No. 9773, Nov. 20, 1914, 28 Phil. 457; *People v. Timbang*, No. 48326, Aug. 6, 1943, 74 Phil. 295.

[10] L-35279, promulgated on July 30, 1979.

[11] *Ibid.*

[12] Cf. *People v. Aquino*, L-2730, Feb. 27, 1950, 55 Phil. 604; *People v. Aguilar*, L-30932, Jan. 29, 1971, 37 SCRA 115; *People v. Estebia*, L-26868, July 29, 1971, 40 SCRA 90; *People v. Flores*, L-32692, July 30, 1971, 40 SCRA 230; *People v. Alincastre*, L-29891, Aug. 30, 1971, 40 SCRA 391; *People v. Espina*, L-33028, June 30, 1972, 45 SCRA 614; *People v. Simeon*, L-33730, Sept. 28, 1972, 47 SCRA 129; *People v. Matias*, L-35384, Nov. 28, 1973, 48 SCRA 181; *People v. Daeng*, L-34091, Jan. 30, 1973, 49 SCRA 221; *People v. Ricalde*, L-34673, Jan. 30, 1973, 49 SCRA 228; *People v. Villafuerte*, L-32036, July 31, 1973, 52 SCRA, 204; *People v. Saligan*, L-35792, Nov. 29, 1973, 54 SCRA 190; and *People v. Lacson*, L-33060, Feb. 25, 1974, 55 SCRA 589.

[13] Art. 160, Revised Penal Code; *People v. Ala*, L-15633, Aug. 31, 1960, 109 Phil. 390.

[14] *People v. Santos, et al.*, L-12448, Jan. 23, 1959, 105, Phil. 40.

CONCURRING OPINION

TEEHANKEE, J.:

I concur. As stated in the Court's opinion, the accused's plea of guilty in open court with the assistance of counsel and the evidence for the prosecution nevertheless received by the trial court precisely to determine that the accused fully and truly under-stood the significance and consequence of their guilty plea, sufficiently sustain the

judgment of conviction.

I write this brief opinion to maintain my dissent in the cases of *Magtoto vs. Manguerra* (63 SCRA 4, 27) as against the obiter dictum in the main opinion that the extra-judicial confessions taken before the effectivity of the 1973 Constitution from the accused who were not assisted by counsel nor informed of their right to counsel and to remain silent were admissible in evidence. The *Magtoto* ruling should be subjected to reexamination in an appropriate case, in the light of the compelling reasons given in their respective dissents therein by the late Chief Justice Fred Ruiz Castro and then Senior Associate Justice, now Chief Justice Fernando.

As stated in my own dissent therein: "(T)here is no room for interpretation and the plain mandate of the Constitution expressly adopting the exclusionary rule as the only practical means of enforcing the constitutional injunction against such confessions obtained in violation of one's constitutional rights by outlawing their admission and thereby removing the incentive on the part of state and police officers to disregard such rights (in the same manner that the exclusionary rule bars admission of illegally seized evidence) should be strictly enforced," and "(T)he outlawing of all such confessions is plain, unqualified and without distinction whether the invalid confession be obtained before or after the effectivity of the Constitution."

DISSENTING OPINION

MAKASIAR, J.:

I dissent. I concur with the view of the Solicitor General that there was an improvident plea of guilty in this case.

For a valid plea of guilty to a capital offense, the entire information must be read and interpreted to the accused in the language and dialect with which he is familiar, including the meaning of the qualifying and aggravating circumstances alleged. The accused herein are Ilocanos who belong to the GIG band which had a standing feud with the other gangs in the national penitentiary. The information alleges murder, attempted murder, evident premeditation, and treachery. These terms were not explained to the accused in Ilocano. That the accused did not understand the meaning of these terms and the consequences of their plea of guilty, is demonstrated by their confessions submitted in evidence. Their confessions uniformly state that they agreed to stab (*manaksak*), not to kill, the inmates in leg irons about 10 o'clock in the night of May 3, 1972. They committed the crime about 11:30 the following morning of May 4, 1972, scarcely 13½ hours later. To my mind, there is no sufficient showing of evident premeditation during that period of 13½ hours; because, after they agreed to assault or injure (*manaksak*) the members of the rival groups who were in leg irons, they must certainly have slept after 10 o'clock that night until about 6 o'clock the following morning. There is not even any showing that upon waking up in the morning of May 4, 1972 until 11:30 that same morning, they meditated and reflected on the consequences of their intended action and after such reflection they persisted in their resolve to commit the crime.

Because their agreement was merely to stab (*manaksak*), which does not necessarily include killing, the appellants, with respect to the death of Romeo Domingo, are entitled to the mitigating circumstance of lack of intent to inflict so grave an act as that committed.

There is no treachery because the assault was made about 11:30 in the morning at the construction site within the Bilibid compound where the prisoners in leg irons were working and near the control gate where there was a guard. And it must be presumed also that the prisoners in chains at the construction site were also guarded. Thus there was no employment of the means and utilization of circumstances to insure the successful execution of the crime. As a matter of fact, only one of the three victims died about 8:30 in the evening of that same day, May 4, about ten hours from the attack at 11:30 that morning. And not only were the two who were injured able to parry

or evade the blows; but also one of them was able to wrest the bladed weapon from one of the assailants who fled thereafter. Another prisoner in leg irons came to the rescue of one of the victims and was likewise able to stab one of the assailants who also fled.

In the absence of the qualifying or aggravating circumstances of evident premeditation and treachery and the presence of the mitigating circumstance of damage exceeding intent, the crimes committed would be merely homicide and multiple frustrated homicide, the corresponding penalties for which should be imposed in the minimum period.

However, because the plea of guilty was improvidently made, the case should therefore be remanded for appropriate proceedings.

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