

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TEOFILO ABROGAR ALIAS TEODULO, ET AL., DEFENDANTS,
TEOFILO ABROGAR ALIAS TEODULO, CRISPIN TICANO AND DANIEL
ABROGAR ALIAS ...**

G.R. No. L-24310. October 19, 1976

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Appeal from the decision of the Court of First Instance of Pangasinan finding the appellants guilty of the crime of robbery with homicide and sentencing them to suffer the penalty of reclusion perpetua; to indemnify the heirs of the deceased Juan Biagtan in the amount of P6,000.00 to further indemnify Mrs. Emilia Biagtan in the sum of P940.00, and Miss Josefina Biagtan in the sum of P200; and to pay three-fourths (3/4) of the costs.

It is undisputed that in the early morning of May 21, 1964, the house of spouses Juan and Emilia Biagtan was robbed by several persons on the occasion of which Juan Biagtan was stabbed nine (9) times resulting in his death.[1] The robbers gained entrance into the house by destroying a panel of the back door leading to the kitchen.[2] Once inside the house, the robbers ransacked the rooms and cabinets and carted away cash and valuables amounting to P1,140.00. After the malefactors had left, Mrs. Biagtan heard her husband moaning inside his room. Turning on the lights, she saw her husband sprawled on the floor, bathed in blood, and clutching his wounds. Juan Biagtan was brought to the hospital where he expired despite the efforts of the attending surgeons to save him.[3]

The police were furnished a brief description of the malefactors and at the funeral of Juan Biagtan, a police detective saw a man, later identified as Teofilo Abrogar alias Teodulo, who was acting unnaturally and whose description fitted that of one of the robbers. Teofilo Abrogar was consequently picked up for questioning and Josefina Biagtan, one of the victims of the robbery, upon hearing the voice of Teofilo Abrogar, readily identified him to be the man who forcibly entered her room and ordered her not to shout, at gunpoint.[4] Thenceforth, Teofilo Abrogar executed an affidavit,[5] admitting knowledge of the crime and naming Crispino Ticano, Mauricio Castro alias Melecio, and one Ben as the perpetrators of the heinous deed. So, Crispino Ticano and Mauricio Castro were arrested and Mauricio Castro acknowledged that Teofilo Abrogar and Crispino Ticano were his confederates and pointed to Daniel Abrogar, a brother of Teofilo, as the mastermind in the commission thereof.[6] As a result, Teofilo Abrogar alias Teodulo, Crispino Ticano, Mauricio Castro alias Melecio, Daniel Abrogar alias Quiel, and one John Doe were charged with the robbery and killing of Juan Biagtan before the Court of First Instance of Pangasinan. Mauricio Castro was later discharged to be a State witness. After a joint trial, the remaining accused were found guilty and sentenced accordingly. Hence, the present appeal.

Counsel de oficio stoutly maintains that in convicting the accused of the crime charged the trial court gave undue weight to the testimony of Mauricio Castro regarding the commission of the crime although said testimony is uncorroborated and comes from a co-conspirator who had been discharged in order to be a witness for the

prosecution.

The testimony of Mauricio Castro is that at about 10:00 o'clock in the evening of May 20, 1964, while he was at the railroad station at Mangaldan, Pangasinan, somebody inside a parked jeep whistled to him. Upon coming near, he saw Daniel Abrogar, with three companions,[7] who told him to get aboard the jeep. He asked why, but Daniel told him to "just ride." He boarded the jeep and Daniel drove towards Dagupan City. Mauricio was later informed that they were going to "stage a hold-up". After driving some distance, Daniel stopped and parked the jeep near a coconut tree. They alighted and went towards a house with Daniel leading the way. Daniel instructed Mauricio to stay below the house. Upon reaching the fence, a dog inside barked and Ticano threw some poisoned food to the dog. When the dog became silent, they scaled the wall and walked towards the house. Daniel stayed behind to guard the jeep. On reaching the house, his companions forced open the door and entered the house. Mauricio was left outside as look-out. About 20 minutes later, his companions came out and they returned to the jeep. On their way back to Mangaldan, he heard one of his companions say that he had stabbed somebody. Daniel stopped at a junction and stayed behind in Dagupan City. Teofilo Abrogar then took over the wheel and left Mauricio at the railroad station at Mangaldan. Two or three days later, Teofilo Abrogar gave Mauricio P45.00 as his share. He asked why the amount was small and Teofilo answered that that was his share according to his brother Daniel since that was the first time Mauricio had been with them.

Mauricio Castro's testimony is corroborated by the affidavit of Teofilo Abrogar,[8] naming Mauricio Castro alias Melecio, Crispino Ticano, and one Ben as the felons. Teofilo Abrogar stated that while he was standing at a railroad crossing at Mangaldan, Pangasinan, in the evening of May 20, 1964, a jeep, with two passengers on board, stopped before him and somebody inside ordered him to get aboard. Upon recognizing one of the passengers to be a close friend, he boarded the jeep. Inside, he saw Crispino Ticano and his close friend, Mauricio Castro alias Melecio. Later, he came to know the driver of the vehicle to be one Ben. From Mangaldan, they drove towards Daupan City. After a time, they stopped at a place beside two coconut trees. Mauricio Castro then ordered him to go with them, but Teofilo demurred as it was raining hard. So, he was left behind. Mauricio Castro and his companions took a southerly course and after about an hour, they came back to the jeep, soaking wet. On their way back to Mangalan, he heard Crispino Ticano say that he (Ticano) had thrown poisoned meat to the dog. He also heard Mauricio Castro relate that he (Castro) had stabbed a man; and the driver of the jeep say that he (the driver) had ordered the removal of a ring from the finger of a woman.

Except for the identity of the driver of the jeep, whom Mauricio Castro stated was Daniel Abrogar, and the opposite stance assumed by the declarants, they agree that they ere together with Crispino Ticano in going to Dagupan City on the night in question; and that a robbery was committed by their companions, on the occasion of which Juan Biagtan was stabbed, resulting in his death.

The testimony of Mauricio Castro is confirmed by Josefina Biagtan who positively identified Teofilo Abrogar as one of the robbers, and by Mrs. Emilia Biagtan who declared that one of the robbers threatened to cut off her finger when she could not remove a ring that was demanded from her. Josefina Biagtan, a niece of the deceased Juan Biagtan, declared that she occupied a room on the second floor of her uncle's house at Mayombo, Dagupan City, and was awakened, at about 1:00 o'clock in the morning of May 21, 1964, by the sounds made by somebody pushing a door open and her uncle saying: "What is that?" A few seconds later, she heard her uncle moan and somebody ransacking her aunt's wardrobe and cabinets. Then, she saw an armed man, whom she later identified as Teofilo Abrogar, enter her room and order her to get up and not to shout. She was brought to the room of her uncle while the armed man went to the room occupied by her aunt and cousins. Inside the room of her uncle, she saw another man opening the cabinets and drawers in the room and who later on divested her of her wrist watch and ring. While there, she also heard Teofilo Abrogar ordering her aunt to remove a ring from a finger and

threatening her aunt to cut off the finger when her aunt said that it was difficult to remove the ring. Then, the telephone rang and the robbers hurriedly left.

Josefina Biagtan recognized Teofilo Abrogar, not only by his voice when said accused ordered her to get up and not to shout, but also by his general features when he turned on his pen flashlight in looking over her room. Josefina also said that Teofilo Abrogar was not unfamiliar to her, having seen him in the house of Juan Biagtan during fiestas in Dagupan and in Mangaldan before she moved to Dagupan.

The testimony of Nauricio Castro is also consistent with the physical facts of the case, such as the poisoning of the dog,[9] and the destruction of the back door,[10] so that the trial court did not commit an error in giving it faith and credit. While there may be some contradictory statements made, the contradictions involve trivial details which cannot materially affect the credibility of the witnesses. Besides, the matter of assigning values to the declaration of the witnesses on the stand is best performed by the trial judge because they, unlike appellate magistrates, can weigh such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial.

Passing upon the defense interposed, We find that the alibi of the appellants do not satisfy the rule[11] that in order to establish an alibi, an accused must show that he was at another place for such a period of time that it was impossible for him to have been at the place where the crime was committed at the time of its commission.

The alibi of Teofilo Abrogar is that he stayed the whole day of May 20, 1964 at their house located near the railroad station at Mangaldan, Pangasinan because he was sick and was still sick on the following day. Crispino Ticano stated that he was also sick and stayed in their house at Barrio Banawang or the night in question. Danilo Abrogar accounted for his movements when the crime was committed and said that he played mahjongg from 3:00 o'clock in the afternoon to 7:00 o'clock in the evening of May 20, 1964, when he left for the Castle Inn, after winning P200.00. He left the nightclub at about 8:30 o'clock and proceeded to the River Side, a cabaret, where he stayed up to 2:00 o'clock the following morning. While at the said cabaret, he gave food and drinks to some hostesses and also met Det. Arzadon and NBI Agent Mendoza with whom he had a few beers.[12] He left the cabaret at about 2:00 o'clock and went to another nightclub, the Moonlight Club, where he was able to take out a hostess with whom he spent the remaining morning hours at a place in Bonuan.

Rationalizing, the trial court said that it cannot seriously consider the alibi of the accused for the simple reason that Mangaldan, Pangasinan, where Crispino Ticano and Teofilo Abrogar reside, is but 9 kilometers from Dagupan City and the distance can be covered in not more than 15 minutes at ordinary speed, and that Daniel Abrogar failed to point to the woman, among those present when the trial court made an ocular inspection of the nightclubs mentioned on November 23, 1964, with whom he spent the hours at the time the crime was committed. Besides, alibi cannot prevail over the testimony of Mauricio Castro and that of Josefina Biagtan with respect to Teofilo Abrogar.

Indeed, the trial court took extra pains to help the accused Daniel Abrogar sustain his alibi by holding sessions in the nightclubs referred to by the said accused in order to look for the lady with whom Daniel Abrogar spent the time when the crime was committed, but no one was pointed to, nor did anyone come forward and admit such dalliance. At any rate, the alibi of the accused cannot stand against the positive identification made by the witnesses for the prosecution.

Upon the foregoing, We are disinclined to diverge, except with respect to the indemnity to be paid to the heirs of the deceased Juan Biagtan which should be increased to P12,000.00.

WHEREFORE, and with the modification above-stated, the judgment appealed from should be, as it is hereby

affirmed. With costs.

SO ORDERED.

Fernando, (Chairman), Antonio, and Aquino, JJ., concur.

Martin, J., concurred and was designated to sit in the Second Division.

Barredo, J., did not take part.

[1] Exhibit C-1.

[2] Exhibit I.

[3] Exhibit B.

[4] Exhibit N.

[5] Exhibit A.

[6] Exhibit T.

[71] Teofilo Abrogar, Crispino Ticano, and one whose whose name he does not know.

[8] Exhibit A.

[9] Exhibit L.

[10] Exhibit I.

[11] See *People vs. Resayaga*, L-23234, Dec. 26, 1973, 54 SCRA 350; *People vs. Saliling*, L-27974, Feb. 27, 1976, 69 SCRA 427.

[12] Mendoza admitted that he saw Daniel Abrogar at the said cabaret up to 9:00 o'clock when he and Arzador left. However, when they came back at about midnight, Daniel Abrogar was no longer there. (pp. 478-479, t.s.n.)

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