

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
YAKAN MALAT, DEFENDANT AND APPELLANT***G.R. No. L-15255. August 30, 1963*

Ponente: BARRERA, J.

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Appeal from the decision of the CFI of Basilan City convicting the accused Yakan Malat of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the deceased Iman Djaliol, the amount of P6,000.00 without subsidiary imprisonment in case of insolvency, to suffer all the other accessory penalties of the law and to pay the proportionate costs. No judgment was rendered, as to the two other accused because one of them, Yakan Garcia, brother of appellant was later killed during an encounter with Philippine Constabulary soldiers, and the other was still at large.

The only point in issue here refers to the credibility of the witness for the prosecution in identifying the herein accused and the strength of the alibi presented by the defense.

Through the testimony of Mora Sabdia, widow of the deceased Imam Djaliol, it has been established that on August 8, 1958, at about 7:30 in the evening, she and her husband, with a small child, were resting after supper in their house at sitio Bohelangong, District of Lamitan, Basilan City. After a while, Djaliol stood up to cover a hole in the wall. While doing so, two shots, followed by four others, were fired from said hole, hitting Djaliol on the right shoulder and on the left side of the back. Sabdia immediately took a flashlight on the mattress beside her and focused the same outside the window. There, at a distance of about five meters away, she spotted the culprits and recognized the accused Yakan Malat and his brother Yakan Garcia, both of whom were armed with guns. (Both Malat and Garcia are personally known to Sabdia, being residents of a neighboring place called Pulolunay.) She also saw a third man near a coconut tree, but whom she did not recognize. Upon seeing the assailants she shouted for help and the three immediately fled. She then turned to her husband and found him already dead.

Neighbors soon arrived in answer to the cry for help. The first to come were the sister of the deceased Nuhaila and her husband Iman Bacondo. Nuhaila testified that while in her home, which was about a hundred meters away from the deceased's she heard six shots coming from the direction of the Djaliol's. She and her husband immediately rushed to their aid. There they found Sabdia bitterly crying over the dead body of her husband. Nuhaila asked what happened and Sabdia said her husband was shot by Yakan Malat and his brother Yakan Garcia.

Later, at about ten in the evening, members of the police patrol of Basilan City, assigned at Lamitan District, arrived together with Luvimindo Valdez, sanitary inspector of the place. Valdez conducted a post-mortem examination of the body of the deceased and found two bullet wounds which caused the death of the victims. Eligio T. Agaac, police corporal with the police patrol also testified having conducted an investigation that same night and found two empty shells of .38 caliber three meters away from the stairs of the house of the deceased and a lead of caliber .38-M-1 under the house. Upon questioning Sabdia if she knew the authors of the crime, she

named Yakan Malat, Yakan Garcia and an unknown third.

Another witness of the prosecution, Asamudin Naruddin, declared that in the evening of the incident while at his home at Bato-bato, a place near that of the deceased, he heard a shot, then later the sound of a gong coming from the direction of the house of the deceased. Sensing that there was some unusual incident, he went down his house and proceeded to the place where the shot and the sound of the gong came. Half-way to the place he met the accused, the latter's brother Garcia, both known to him, and another, one Jalani. The accused Malat asked Naruddin where he was going and when the latter told him he was on his way to the place where the shot and the gong sound came, Malat told him not to proceed anymore because there was nothing wrong there. Then the three instead asked him to go fishing with them. Naruddin excused himself but accompanied them to his brother-in-law, who went with them. Naruddin, however, testified that instead of fishing nets, both Malat and Garcia were carrying guns.

Both the widow, Sabdia and the witness Nuhaila testified that prior to the shooting, the deceased assisted Mora Bidao (whose daughter is married to the son of the deceased) to the police station to complain against the accused regarding certain land trouble that Malat had with Bidao.

The defense is alibi to the effect that in the evening of that day, the accused went fishing and was out in the sea the whole night. Two witnesses were presented to corroborate Malat's testimony, but these two merely testified regarding their conversation with Malat at between four and five o'clock that afternoon. The other witness was supposed to be a companion of Malat during the fishing, who, strangely enough, accompanied Malat for the first time.

This alibi can not prevail, even if true, over the positive statement of Sabdia who identified the accused and named him spontaneously and without hesitation first, to Nuhaila upon her arrival at the house immediately after the shooting, and then to the police investigator upon the latter's arrival an hour or so later. Then, too, there is the corroborative testimony of Naruddin who met the accused with a gun on his way to the place of the shooting.

All this together with the accused's admission that there was really a land trouble between him and Mora Bidao, and that he knew of no reason why Sabdia and Naruddin should have testified against him, leaves no reasonable doubt that the appellant is guilty as found by the trial court.

The decision appealed from being in accordance with law and the facts of the case, the same is hereby affirmed with costs. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L, Dizon, Regala , and Makalintal JJ., concur.

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