

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALI ITUM, SALIHON AND JAMIRUDDIN, DEFENDANTS. JAMIRUDDIN
IBBO, DEFENDANT AND APPELLANT.**

G.R. No. L-4881. May 27, 1953

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal by the defendant, Jamiruddin Ibbo, from a judgment of the Court of First Instance of Sulu, finding him guilty of tripple murder with serious physical injuries, and sentencing him to reclusion perpetua, with legal accessories, and to indemnify the heirs of each of the three victims in the sum of P2,000.00, plus the costs.

The evidence for the prosecution is to the effect that in the afternoon of April 29, 1945, Jumadin, his wife Hajira and children Marabiya and Hadjirani, and Imlani Asah were at the open kitchen on the ground floor of their house in Sionogan, district of Indanan, Sulu, when suddenly the appellant, together with Ali Itum and Salihon (the latter two being still at large), armed with spears, barongs and a kris, appeared and attacked them viciously. Hajira received spear thrusts on her stomach, left ribs and left hand; Jumadin was speared through his abdomen, his intestines came out, and his left hand was severed; Hadjirani received a spear thrust on the left chest. Jumadin and Hadjirani died on the spot, and Hajira at midnight of the same day. Imlani Asah was merely wounded on the left buttock. When the assailants started the assault, Marabiya ran upstairs from where she was able to see the way it was carried out. Shortly after the attackers had fled, Mayor Uddin of Indanan happened to pass by the house of Jumadin and found the latter and Hadjirani lying dead, Hajira still alive, and Imlani wounded on the left buttock. Mayor Uddin talked to Hajira who disclosed that Jamiruddin was the one who speared her. He also questioned Imlani, and the latter stated that the assailants were the appellant, Ali Itum and Salihon. In the same evening Marabiya reported the incident to Captain Maut, constabulary detachment commander, who made an ocular inspection of the scene of the crime in the following morning. Marabiya, however, did not file the complaint in the fiscal's office until after six years, because she was afraid of Ali Itum who was still at large.

The defense set up by the appellant is an alibi. Without discussing this at length, we are of the opinion that the prosecution has not established beyond reasonable doubt the appellant's guilt. It is very significant that, although Marabiya is alleged to have reported the matter to the constabulary commander on the same night of its occurrence, it is queer that she did not make any formal complaint before the proper prosecuting officials and it took her six years before doing so. The allegation that she was afraid of a reprisal on the part of the assailants who were still at large, is rather weak, considering that she already had the courage to make an immediate report to Captain Maut. Still more significant is the fact that the latter also failed to bring the case to the proper authorities with a view to prosecuting the culprits. No less important is the further circumstance that, although the provincial fiscal filed an information against the alleged three assailants on April 9, 1949, said information was dismissed by the justice of the peace of Indanan. On top of all these, although it is alleged by the prosecution that Mayor Uddin knew of the crime on the very night of its commission, with full information of the authors thereof, he likewise did not take the necessary steps for their apprehension and prosecution.

On the other hand, Imlani Asah was one of the persons attacked in the house of Jumadin and, instead of testifying for the prosecution, testified for the defense, declaring particularly that Marabiya was not present on the occasion in question because she was in Tamban-tamban, the residence of her husband, four kilometers away from Sionogan, and that the assailants were only Ali Itum and Salihon. As Imlani is related to Hajira, his aunt, it is improbable that he would testify falsely against his relatives and in favor of the latter's assailants. Although Imlani Asah signed an affidavit incriminating the appellant, he explained in open court that he told the fiscal who investigated him that the appellant was not among those who entered the house of Jumadin; and the fiscal was not even presented by the prosecution as a rebuttal witness.

Wherefore, the appealed judgment is reversed and the defendant-appellant acquitted with costs de officio. So ordered.

Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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