

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
YAKAN LABAK, ET AL., DEFENDANTS. YAKAN LABAK, YAKAN
ABDULA, YAKAN AMANG, YAKAN BUSLOT AND YAKAN IMAM
MAALIM, DEFENDANT...**

G.R. No. 11892. October 31, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

In the Court of First Instance of Basilan City, Yakans Labak, Abdula, Amang, Abdul, Buslot and Iman Maalim were charged with the murder of Jose Atilano. After trial, the court acquitted Abdul for insufficiency of evidence, but convicted the other five accused of the charge, considered against them the aggravating circumstance of uninhabited place and by a band, but offset by the mitigating circumstance of lack of instruction, and sentenced each of them to life imprisonment, to indemnify jointly and severally the heirs of the victim in the sum of P3,000.00, without subsidiary imprisonment in case of insolvency, and to pay the proportionate costs.

The facts, as established by the prosecution, are: At 6:10 a.m., November 18, 1953, the single engine plane of the American Rubber Company, with Severo Viloría as pilot and Jose Atilano, general manager of the company, as lone passenger, took off from Zamboanga City Airfield and landed thirty minutes later at Buli-Buli Airstrip, Basilan City. Soon thereafter, a company jeep, driven by Estanislao Falcasantos, with Manuel San Luis and Jose Fermin, Jr. as passengers, arrived to pick up Atilano and Viloría. Atilano sat in front beside the driver. At the back, from left to right, were San Luis, Fermin and Viloría. As the jeep was going up an incline, on the way to the company logging camp, the passengers thereof saw, standing at the right side of the road, a man pointing his gun at the jeep. Atilano excitedly called his companion's attention to the armed man. The road being upgrade, the jeep was running very slowly. As the armed man approached the jeep, the passengers on the back seat jumped out. Hardly had they leaped out, when they heard the sound of firing and Atilano's cry of pain. Viloría scampered to a nearby coconut tree, but when he saw other natives coming towards him, he ran farther and hid among thick bushes.

Fermin, who was about 8 meters from the jeep when the armed man fired, recognized the latter as one whom he used to see loitering in the premises of the company garage and sawmill. Fermin hid for some time among the bushes on the left side of the road, and then headed for the company camp. After reporting the ambushade to the company superintendent, Damaso Furagay, Fermin, together with nurse Custodio Mariano, and some security guards, went back to the place of the incident. They found Falcasantos trying to aid Atilano. Mariano administered first aid, but Atilano expired 15 minutes later. Fermin found missing Atilano's wrist watch and[^] the package of medicine worth P47.80, which Atilano brought with him from Zamboanga City. Viloría and Fermin flew to Zamboanga City and reported the incident to the authorities. .

The autopsy, performed by Dr. Esperidion Alvarez of Zamboanga General Hospital, revealed that the victim suffered:

- "1. Shotgun wound; penetrating right anterior lumbar area, perforating small intestines, multiple; stomach, lesser curvature; liver; right and left ventricle; with one exist (bullet) at left epigastrium.
2. Wound incised (five inches long by 1 1/2 inches deep) posterior axillary line, level of the 7th rib, right; arm upper, outer aspect (3 inches long 1 inch deep).
3. Abrasions, infrapatellar, bilateral; ankle, anterior aspect, right.
4. Foreign bodies (bullet pellets) subcutaneous, chest left, costal arch left.
5. Hemorrhage, severe, mediastinal and abdominal cavities." (Exhibit L)

The investigation conducted by Philippine Constabulary Lt. Alfredo Caoili revealed that from the time appellant Labak had been refused employment by the American Rubber Company, he had been hanging suspiciously around the company camp. When questioned by Lt. Caoili, Labak admitted that he took part in the ambush. He revealed that his companions were Buslot, Abdula and Amang. The last two were duly apprehended but Buslot could not be found. After Labak repeated his admission in their presence, Abdula confessed he was the triggerman, and Amang affirmed their complicity. Labak also disclosed to Lt. Caoili that it was Buslot who persuaded him to join the murderous band by offering him a share in the P200.00 reward which Iman Maalim was going to give Buslot for Atilano's murder.

By means of Abdula's confession, the PC soldiers recovered the fatal paltik shotgun from Abdul, one of the accused who had been acquitted. Two barongs (Exhibits S and S-1) used in the ambush were likewise taken from Amang and Abdul. Labak, Abdula, Amang and Abdul were taken to the PC headquarters, Zamboanga City, where Lt. Caoili, assisted by Lt. Marohombsar, and an interpreter, Muelles, took down their extra judicial confessions (Exhibits O, P, Q and R, respectively), which were subsequently subscribed and sworn to before Judge Doroteo de Guzman of the Basilan Municipal Court.

Subsequently arrested, Iman Maalim was brought to City Fiscal Geronimo de la Pena of Basilan City, who took down his sworn statement (Exhibit V) with the help of Dulin Payao, official stenographer and interpreter.

Appellants argue that the prosecution failed to clearly prove their motive for the murder. Claim is made that if Iman Maalim really bore any grudge, it should have been directed at Damaso Puragay, the man allegedly responsible for his lay-off. In his sworn statement, Iman Maalim divulged that two Moros, Sandung and Musta-man, promised to give him P300.00 if he would kill Atil-ano but he refused; that by means of threats, Sandung and Mustaman persuaded him to propose the murder to the other appellants; and that Labak, Abdula, Amang and Buslot agreed to kill Atilano for P200.00. The balance of P100.00 was supposed to have been Maalim's reward, and formed his main reason for plotting the victim's death. In addition, there was his fear that if he refused he would be killed by Sandung and Mustaman. Whatever grudge he bore against the company, as represented by its manager, the victim, was but an additional motive for his undertaking the crime. The other appellants were also impelled by motives of gain in joining the plot.

Appellants characterize as unusual the fact that Lt. Caoili did not first investigate the eyewitnesses but instead asked one of the company employees, Hadji Taupan, Jr., if there were any employees who had been recently dismissed. Caoili's mode of investigation was nowhere out of the ordinary. When Fermin reported the killing to the authorities he revealed that he recognized one of the natives who took part in the ambush. All those in the ambushed jeep were company officials on their way to the company camp. There was therefore ground for Lt. Caoili's suspicion that any of the assailants may have been a disgruntled former employee of the company. And his investigation along this line was fruitful. He learned that sometime before the incident, Labak, whose application for employment had been refused, often lurked suspiciously around the company camp. When

investigated, Labak confessed and named his co-conspirators. Abdula and Amang also admitted their complicity, as did Imam Maalim.

Argument is put forth that the extra judicial confessions of Labak, Abdula, Amang and Imam Maalim are inadmissible in evidence having allegedly been obtained through force and intimidation. During the trial, Labak, Abdula, Amang and the acquitted Abdul testified that during the investigation on the night of November 18, 1953, the PC soldiers, in their efforts to make appellants confess, boxed and hit them with rifle butts in the presence of Lt. Caoili; that the next morning, While aboard a boat to Zamboanga City, the PC men and some civilians tortured them by submerging their heads in the sea for long periods of time; that at the PC headquarters, Zamboanga City, they were abused before they were placed in cells; and that the morning thereafter they were again investigated and maltreated, after which the PC soldiers placed their thumbs on documents the contents of which they did not know.

Several reasons persuade us to reject appellants' claim of maltreatment. Not one of them presented a medical certificate evidencing treatment for the injuries supposed to have been inflicted by the PC men. We do not believe Labak's allegation that the small scars on his left ear and left leg were vestiges of such injuries. Had appellants received as brutal a maltreatment as that claimed, such manhandling certainly would have left traces much bigger and more pronounced than Labak's tiny sears. Furthermore, the other appellants do not have the slightest indication of abuse on their bodies. If as appellant Amang claims, the PC men hammered nails into his knees and legs, then there should have been marks of the injuries. But there was none.

It is unbelievable, that as alleged by Abdula and Amang, they were first maltreated before they were questioned. Far credible would it have been had they stated that they were first questioned and then maltreated upon their refusal to own the killing. There appearing no motive for Lt. Caoili and the PC soldiers to abuse appellants, the presumption is that they performed their duties regularly and lawfully in the investigation of this case.

Labak, Amang and Abdula never revealed the alleged maltreatment to Doroteo de Guzman, before whom they subscribed and swore to their confessions. They had all the chance to do so since Judge De Guzman ordered all the PC men to leave his chamber before Dulin Payap, official interpreter in the fiscal's office, read and translated to Labak, Abdula and Amang the contents of their affidavits. At the trial, Amang and Abdula vehemently claimed that in spite of the PC threat of further maltreatment, they never confessed to anybody that they asserted that all-three voluntarily subscribed to their affidavits.

The acquitted Abdul also told of maltreatment similar to that supposedly received by Labak, Amang and Abdula. It is noteworthy, however, that in his very short statement, Abdul merely stated that he handed the paltik shotgun to the PC men. This is persuasive proof that appellants' tale of maltreatment and torture was pure concoction, otherwise Abdul's torturers would have seen to it that he also made a highly incriminating statement like that made by appellants.

We find incredible Imam Maalim's testimony that he confessed because he was maltreated by the PC men; and that he signed his confession because Fiscal De la Pena told him that if he refused the PC soldiers would kill him. Maalim could not have been maltreated by the PC soldiers for they did not investigate him. He was brought directly to Fiscal De la Pena who, on rebuttal, denied that he threatened Maalim.

From the extrajudicial confessions of Labak, Abdula, Amang and Imam Maalim, it appears clearly that the four of them, together with Buslot, had plotted to kill Atilano and that Labak, Abdula, Amang and Buslot carried out the criminal plan into execution, with Abdula as the one who fired the fatal shot.

Aside from the confessions, three eyewitnesses, Jose Fermin, jr., Manuel San Luis and Estanislao Falcasantos,

saw Abdula shoot Atilano with the paltik shotgun. Contrary to appellants' claim, the fact that Fermin is a brother-in-law of the victim did not detract from his credibility, inasmuch as he was corroborated by San Luis and casantos, eyewitness whose bias was not shown. These three persons unerringly picked out the triggerman, Abdula, from a group of persons in the courtroom. San Luis stayed in the jeep long enough and took particular pains to remember Abdula's face as the latter approached the jeep. Abdula was barely three meters away when San Luis jumped from the jeep. Aside from Abdula, Falcasantos also recognized his three companions. Buslot and Amang, armed with barongs, were with Abdula as the latter stood at the right side of the road. Abdula approached the jeep and then fired at the victim. Falcasantos jumped from the jeep in order to escape. He redoubled his speed when Labak chased him with a barong.

The presence at the ambush and the participation of Labak, Abdula, Amang and Buslot have been established. Only Labak attempted to prove that he was at home sleeping at the time of the commission of the crime, but his alibi was not convincing. The three others did not even try to disprove their presence at the scene of the crime.

Besides, the murder weapon, the paltik shotgun, and the two barongs were recovered from Abdul, brother-in-law of Abdula, Amang and Buslot. Through the confession of Abdula, these weapons were traced to Abdul who had hidden them. If appellants were only tortured and forced to make their confessions, then it is inconceivable how they could have been in possession of these weapons.

Although Buslot never made an extrajudicial confession, his guilt has likewise been proven beyond reasonable doubt. He was positively identified by Falcasantos as one of the armed men with Abdula. Both Amang and Labak, in their confessions, declared that Buslot hacked Atilano after Abdula shot him. This finds support in the incised wound suffered by the victim. Furthermore, Abdula and Imam Maalim named Buslot as one of the conspirators.

Conspiracy having been clearly established, the act of one is attributable to all (People vs. Romualdez, 57 Phil., 148). The lower court acted correctly in considering as only one aggravating circumstance the fact that the crime was committed in an uninhabited place and by a band (People vs. Santos, et al., 91 Phil., 320). However, the indemnity to the heirs should be, and is hereby raised to P6,000.00.

Thus modified, the appealed decision is affirmed, with costs against appellants.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

Judgment affirmed with modification.

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