

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ABELARDO PARUNGAO, ACCUSED-APPELLANT.

G.R. No. 125812. November 28, 1996

Ponente: MELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-125812/>

MELO, J.:

On May 30, 1989, early in the morning, the detention prisoners in Cells No. 2 and 6 of the Pampanga Provincial Jail at the Provincial Capitol in San Fernando, staged a jailbreak. On the occasion thereof, Jail Guards Conrado Basa and Emilardo Valencia were killed, while Jail Guard Arnel Aldana was seriously wounded. Several pieces of firearms valued at P41,000.00 were also forcibly taken and carried away from the Provincial Jail Armory.

The incident triggered the filing on April 16, 1990, of an Information against herein accused-appellant Abelardo Parungao and 15 other prisoners charging them with the crime of Robbery with Homicide and Serious Physical Injuries, thusly:

That on or about the 30th day of May, 1989 inside the Pampanga Provincial Jail at Provincial Capitol, municipality of San Fernando, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who are cell-mates at Cell No. 6, with evident premeditation and taking advantage of their superior strength, and with intent to escape from their detention cell, by conspiring, confederating and mutually helping one another, with intent of gain, and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon Conrado Basa, Emilardo Valencia and Arnel Aldana who are all Provincial Jail Guards and while engaged in the performance and discharge of their official duties as such, by beating and striking them repeatedly with pieces of wood (bamboo stick) on the different parts of their bodies, thereby inflicting upon Conrado Basa and Emilardo Valencia serious and fatal injuries which cause their death thereafter, and serious physical injuries upon Arnel Aldana, and on the same occasion thereof and thereafter, did then and there take, steal and carry away with them the following properties, to wit:

1. One (1) shotgun 12 gauge -- SN957475 - P8,500.00
2. One (1) shotgun 12 gauge -- SN974412 - 8,500.00
3. One (1) shotgun 12 gauge -- SN974105 - 8,500.00
4. One (1) Ruby cal. 22 -- SN613085 - 5,200.00
5. One (1) Ruby cal. 22 -- SN637171 - 5,200.00
6. One (1) Ruby cal. 22 (high std) SN1166602 - 5,200.00

belonging to the armory of the Provincial Jail valued at FORTY ONE THOUSAND ONE HUNDRED PESOS (P41,100.00), Philippine Currency, to the damage and prejudice of the said owner in the total amount of P41,100.00, Philippine Currency.

All contrary to law.

San Fernando, Pampanga, April 16, 1990.

(pp. 37-38, Rollo.)

In an earlier and a separate trial, the court below, handed down a decision dated October 4, 1990, convicting four of the accused, namely, Romeo Pamintuan, Edgar Pabalan, Mario Briones, and Ronnie Pilapil, while two, Gerardo Javier and Vivencio Feliciano, were acquitted. The judgment of conviction was later affirmed by this Court in a decision dated May 28, 1993 (People vs. Pamintuan, 222 SCRA 716 [1993]).

Herein accused-appellant Parungao who was arraigned only on January 14, 1990, was tried separately and thereafter convicted by the Regional Trial Court of the Third Judicial Region (Branch 42, San Fernando, Pampanga) on March 18, 1991. The instant appeal is thus with reference only to accused-appellant Parungao.

The evidence of the prosecution tends to show the following incidents:

At about 7 P.M. on May 29, 1989, Mario Quito, a detention prisoner in Cell No. 2 of the Provincial Jail of San Fernando, Pampanga, was asked by his cell mates Jun Solis and Edgar Pabalan, if he wanted to join them in a jailbreak and escape, to which Quito answered "Bahala na." Solis and Pabalan told Quito there is no problem because many prisoners were joining, adding that herein accused-appellant Parungao was the mastermind. Sometime thereafter, Ramon Sevilla, a detainee and trustee, came and handed a letter to Pabalan. Quito read the letter which allegedly instructed Pabalan and Solis to tie Jail Guard Basa and to put off the main switch.

Early the following morning, at about 1 o'clock, prisoner Sevilla came and opened the gate of Cell No. 2, and the prisoners therein, including Quito, went out.

While Quito was in the jail yard, he saw accused-appellant Parungao near the gate of Cell No. 1 shouting out to Sevilla to open also their Cell No. 1. Sevilla opened the gate of Cell No. 1 but accused-appellant Parungao and his cell mates Feliciano and Javier did not go out of their cell.

In the meantime, the prisoners from Cells No. 2 and 6, ran out and on their way out, they passed by Jail Guards Basa, Valencia, Aldana, and Pacheco, in their respective gates, all sleeping. To insure their escape, the escapees tied the guards, beat them with bamboo sticks, and/or stabbed them with knives. Basa and Valencia were killed; Aldana was seriously wounded, but Pacheco was unharmed.

As the prisoners were beating up the jail guards, accused-appellant who remained in his cell was heard by Pacheco shouting to Briones words which were ungrammatically translated during the trial as: "Alright, go ahead and kill those son of a bitch" (tsn, March 4, 1991, p. 5).

Later, an investigation by the Integrated National Police (INP) of San Fernando, Pampanga, showed that 6 firearms were missing from the prison armory.

Accused-appellant puts up the defense of denial. According to him, during the jailbreak, he was inside Cell No. 1 together with the rest of his cell mates, including Luisito Tolentino, Vivencio Feliciano, and a certain Lapid. There was a brownout and he lay on the floor as gunshots were fired. He claims he had nothing to do with the jailbreak and was implicated because the prosecution witnesses, who were prisoners and jail guards, took offense against him because he had reported them for drug trafficking inside the jail.

Persuaded by the prosecution's evidence, the trial court rendered its decision on March 18, 1991, the decretal portion of which reads:

WHEREFORE, the Court finds accused Abelardo Parungao y Gatus guilty and hereby sentences him to suffer the penalty of life imprisonment and to pay solidarily (alongside with Romeo Pamintuan y Bautista, Edgar Pabalan y Benamira, Ronnie Pilapil y Esaya and Mario Briones y Guinto) the following:

1. The heirs of the late Emilardo Valencia the total sum of P180,000.00, broken down as follows: P50,000.00 for the death of Emilardo Valencia, P10,000.00 for funeral/burial expenses; P100,000.00 for loss of earning

capacity; P20,000.00 as moral damages;

2. The heirs of the late Conrado Basa the total sum of P182,000.00 broken down as follows: P50,000.00 for the death of Conrado Basa; P12,000.00 for funeral/burial expenses; P100,000.00 for loss of earning capacity; P20,000.00 as moral damages;

3. Arnel Aldana the amount of P800.00;

4. Provincial Jail of San Fernando, Pampanga the amount of P41,100.00.

SO ORDERED.

(p. 43, Rollo.)

Accused-appellant anchors his appeal on what he considers to be reversible error on the part of the trial court in accepting and giving full probative value to the hearsay and uncorroborated testimony of the prosecution witnesses and on the basis thereof, in finding him a co-conspirator and a principal by inducement.

The principal query posed, therefore, in the instant appeal is whether or not accused-appellant is a co-conspirator and principal by inducement.

The prosecution presented four witnesses - Mario Quito, Ronnie Pilapil, Arnel Aldana, and Fernando Pacheco to establish the existence of conspiracy and that accused-appellant was co-conspirator and a principal by inducement in the commission of the crime charged.

Mario Quito, a prisoner in Cell 2 testified that his cell mates Jun Solis and Edgar Pabalan told him that the mastermind of the jailbreak was accused-appellant, based on a letter of Ramon Sevilla to Pabalan and Solis. Unfortunately, this letter was not presented as evidence.

Ronnie Pilapil, also a detainee at the Pampanga Provincial Jail, declared that Mario Briones and Mario Quito told him that Parungao had asked them to join in the jailbreak.

Arnel Aldana, a jail guard testified that he was told by Mario Quito, Romeo Pamintuan, and Ronnie Pilapil that accused-appellant Parungao was the mastermind of the jailbreak.

Pacheco, a jail guard trainee declared that he heard accused-appellant Parungao ask Briones to open Cell No. 1, shouting in the process, "Alright go ahead and kill those son of a bitch."

Plainly the foregoing testimony of Quito, Pilapil, and Aldana that accused-appellant was the mastermind of the jail break is not sufficient to prove such fact, such evidence being merely hearsay because said witnesses testified and conveyed to the court matters not of their own personal knowledge but matters only narrated to them by other detainees. There is nothing in their testimony pointing to accused-appellant as the very source of their information that he planned the jailbreak. However, it must be noted that neither accused-appellant nor his counsel objected to the admission of the testimony of Quito, Pilapil, and Aldana.

The general rule is that hearsay evidence is not admissible. However, the lack of objection to hearsay testimony may result in its being admitted as evidence. But one should not be misled into thinking that such declarations are thereby impressed with probative value. Admissibility of evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not can not be given credence for it has no probative value.

We have consistently held that :

The failure of the defense counsel to object to the presentation of incompetent evidence, like hearsay evidence or evidence that violates the rule of *res inter alios acta*, or his failure to ask for the striking out of the same does

not give such evidence any probative value. The lack of objection may make any incompetent evidence admissible. But admissibility of evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not has no probative value (*People vs. Valero*, 112 SCRA 661 [1982]; Reiterated in *People vs. Nebreja*, 203 SCRA 45 [1991]; *People vs. Damaso*, 212 SCRA 547 [1992]; *Baguio vs. Court of Appeals*, 226 SCRA 366 [1993]; *People vs. Cabintoy*, 247 SCRA 442 [1995]).

To give weight to the hearsay testimony of Quito, Pilapil, and Aldana, and to make the same the basis for finding accused-appellant a co-conspirator and for imposing the penalty of life imprisonment, gravely violates the hearsay rule and the constitutional right of the accused-appellant to meet the witnesses face-to-face and to subject the source of the information to the rigid test of cross-examination, the only effective means to test their truthfulness, memory, and intelligence. In case of conflict between a provision of the Constitution giving the accused a substantive right and mere technical rules of evidence we have no choice but to give effect to the Constitution (*People vs. Valero*, supra).

Obviously, the trial court gravely erred in accepting, and worse still, in giving weight to the hearsay testimony of Quito, Pilapil, and Aldana, that accused appellant masterminded the jailbreak, and was a co-conspirator. Too, it defies logic to say that accused-appellant is the mastermind of the jailbreak, giving written instructions even, but in the same breath say that he did not in fact join the jailbreak and sat meekly inside his detention cell.

Again, we can not agree with the trial court that accused-appellant is guilty as principal by inducement simply because as testified by jail guard Pacheco, he shouted out words of encouragement to Briones. Accused-appellant's remarks or utterances did not make him a principal by inducement.

This Court has held that for utterances of an accused to make him a principal by inducement, the same must be of such a nature and uttered in such a manner as to become the determining cause of the crime to serve such purpose, and that such inducement was uttered with the intention of producing the result (*People vs. Caimbre, et al.*, G.R. No. L-12087, Dec. 29, 1960, *People vs. Castillo*, 17 SCRA 721 [1966]; *People vs. Canial*, 46 SCRA 634 [1972]).

In other words, the inciting words must have great dominance and influence over the person who acts; they ought to be direct and as efficacious, or powerful as physical or moral coercion or violence itself. Thus, where the alleged inducement to commit the crime was no longer necessary to incite the assailant, the utterer can not be held accountable for the crime as a principal by inducement (*People vs. Canial*, 46 SCRA 634, [1972]); *People vs. Indanan*, 24 Phil. 203).

In the case at bar, considering that the accused-appellant uttered the words only after the prisoners who had escaped had already beaten up and killed jail guards Basa and Valencia and seriously injured Aldana, accused-appellant's statement cannot be taken as an order to kill. It taxes the imagination how the ungrammatically translated declaration imputed to accused-appellant could become the moving cause without which the jailbreakers would not have killed or harmed the victims. The jail breakers had already killed the guards and needed no prodding or instigation from anybody to kill. It appears, therefore, that the alleged proddings and urgings were no longer necessary to induce the assailants to commit the crime.

Conspiracy has not been established beyond reasonable doubt. It is a rule that although there is no direct evidence of prior agreement to commit the crime, conspiracy may be inferred from the acts of the accused before, during, and after the crime which are indicative of a joint purpose, concerted action, and concurrence of sentiments (*People vs. de Leon, et al.*, 245 SCRA 538 [1995]).

The record is bereft of any evidence indicating a prior plan or agreement between accused-appellant and the other inmates in the implementation of a common design to bolt jail, kill the guards, and rob the prison armory. There is no evidence that accused-appellant participated in the killing of the two guards, Basa and Valencia, nor in

inflicting injuries on Aldana. In fact, accused-appellant before, during and after the incident never left his cell.

In the light of the established circumstances, the Court is not convinced that there is enough evidence to prove accused-appellant's guilt beyond the shadow of a doubt. The paucity of such evidence only strengthens the suspicion that the prosecution witnesses fabricated their testimony against accused-appellant because of his having reported their drug trafficking activities in the provincial jail.

All told, the criminal complicity of accused-appellant, either as a co-conspirator or a principal by inducement in the crime charged, has not been established beyond reasonable doubt.

WHEREFORE, the decision appealed from is hereby SET ASIDE and REVERSED. Accused-appellant Abelardo Parungao is hereby ACQUITTED and his immediate release from custody is ordered unless he is being held on other legal grounds.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.