

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF–APPELLEE, VS.
COMMANDER JOSE ALCANTARA, ET AL.,
DEFENDANTS-APPELLANTS.**

G.R. No. 16832. November 18, 1967

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by Lucio Mañosca and Mariano Ramos from the decision of the Court of First Instance of Quezon, in its Criminal Case No. 160-G, the dispositive portion of which decreed as follows:

"PREMISED on the foregoing considerations, the Court hereby finds Lucia Mañosca and Mariano Ramos GUILTY beyond reasonable doubt, the first as principal and the second as accomplice, of the crime of kidnapping for ransom, defined by Article 267 of the Revised Penal Code and punished by the last paragraph thereof as amended by Republic Acts Nos. 18 and 1084. But the offense having been committed prior to the enactment of Republic Act No. 1084, the correct penalty for the accused should be that provided in the last paragraph of Article 267, as amended by Republic Act No. 18, which is reclusion perpetua to death. There being two aggravating circumstances and no mitigating to offset the same, the penalty should be imposed in the maximum which is death. But taking into consideration that the accused Lucio Mañosca is now in his declining years, 64 years of age, not in the best of health, the Court is of the sense that justice would be better subserved if he is only imprisoned for the rest of his natural life. In view thereof, the Court hereby sentences Lucio Mañosca to suffer RECLUSION PERPETUA and to pay one-tenth of the costs.

"Mariano Ramos being an accomplice only, the correct penalty for his guilt is one degree lower than reclusion perpetua and that is reclusion temporal. Applying now the indeterminate sentence law, Mariano Ramos is hereby sentenced to a minimum of TWELVE (12) YEARS of prison mayor to a maximum of TWENTY (20) YEARS of reclusion temporal, to pay one-tenth of the costs, with credit to one-half of his preventive imprisonment.

"SO ORDERED."

The facts which are not in dispute are: that in the afternoon of 21 April 1954, a Chinese merchant, Wee King, was kidnapped by several armed men dressed in Army uniforms, from his house in Catanauan, Quezon, taken to the mountain fastnesses of Bondoc Peninsula, he was held there in custody for thirty days and then ransomed by his wife for P30,000.00. At that time, the accused appellant Lucio Mañosca was the vice-mayor of the municipality of Catanauan, while the other appellant, Mariano Ramos, was the teniente concejal of barrio Camandizon (then part of barrio Tagbakan Silangan) of the same town; that at that time, also, Jose Alcantara or Lt. Alcantara or Commander Alcantara, known as Hukbalahap, commanded the Tadtad Unit, in charge of kidnapping; and that Mañosca had previously negotiated for the release of one Yumul, kidnapped for ransom by Alcantara and his gang.

On 11 June 1956, the two appellants, together with Alcantara and other unidentified persons, were charged with Wee King's kidnapping. After trial, the lower court sentenced the accused-appellants as herein before quoted.

They appealed to this Court and assigned the following errors:

"The trial court erred in admitting the alleged confessions, Exhibits A and B, notwithstanding the fact that they were not freely made by the accused Mariano Ramos and Lucio Mañosca.

"The trial court erred in giving credence to the uncorroborated testimony of Mariano Ricaro and Mateo Molines, two self-confessed members of the gang, which committed the kidnapping.

"The trial court erred in ruling that the accused Lucio Mañosca conspired with the kidnappers of Wee King."

The evidence for the prosecution shows the following:

On 15 April 1954, Commander Alcantara held a conference with Commander Eling Magtapat, head of the Lapu-lapu Unit of the HMB at the latter's headquarters at sitio Bukal, barrio of Ilayang Cawayan. The former inquired from the latter whom they could trust in the town of Catanauan and the latter mentioned the name of appellant Lucio Mañosca. Forthwith, Alcantara dispatched two of his men, one of whom is prosecution witness Mariano Ricaro, to fetch Mañosca at barrio Commandizon. The emissaries reached the place and stated their mission. Mañosca told them that they could not go right away as he wanted to wait for appellant Mariano Ramos. When Ramos arrived, the group proceeded to the Huk camp.

In a conference with the two Huk commanders the following morning, Mañosca was asked by Alcantara if he was ready to help, to which he replied, "Primong Eling (Magtapat) knows how I help." Alcantara then asked who was the wealthiest person in town, to which Mañosca answered that he knew no other person than copra merchant Wee King. Alcantara decided to kidnap Wee King and told Mañosca that he would be given a share of P10,000.00 if the ransom would be P30,000.00 or a P5,000.00-share if the ransom would be P20,000.00. Mañosca agreed. (T.s.n., pp. 21-28) Ramos took no part in the planning but Alcantara told him to act as a lookout during the kidnapping.

On 21 April 1954, Wee King was kidnapped. Appellants Mañosca and Ramos acted as look-outs while the kidnapping was taking place. (Exhs. "A" & "B").

In the band's mountain hide-out, Alcantara ordered Wee King to write to his wife. Wee King had been informed by the commander's men that Mañosca could facilitate his release.

Some persons also suggested to Mrs. Wee King that appellant Mañosca could be of help since he had been a guerilla and was familiar with the mountains (T.s.n., pp. 76-77). Mrs. Wee King accepted the suggestion and approached Mañosca for help. Thereafter, with Mañosca as negotiator, the original demand of the kidnappers for the release of their victim was gradually reduced from P200,000.00 to P30,000.00.

On 22 May 1954, Mrs. Wee King, accompanied by appellant Mañosca, Mayor Orfanel and some other persons, delivered P30,000.00 to Alcantara at his hide-out and Wee King was released.

Alcantara then divided the ransom money, and later sent part thereof to Mañosca.

The foregoing findings of the trial Court are supported by the testimony of two witnesses, Mariano Ricaro and Mateo Molines, both former Huk (HMB) surrenderers, and by the confessions of the two appellants (Exhs. A and B) given at the Constabulary headquarters in Camp Crame, Quezon City, on June 13 and 20, 1956, respectively, and ratified before Fiscal Pedro Revilla, of said city on June 21 of the same year. Ricaro had been the bodyguard of Huk commander Magtapat, and had been dispatched to summon Mañosca, to a conference with Magtapat and Huk commander Alcantara when the kidnapping was agreed upon, and had brought thither Mañosca and appellant Ramos, for whom Mañosca had waited before conferring with the commanders. Ricaro had been present at said conference, and after the ransom was paid, the witness was sent to deliver Mañosca's share. Molines in his turn

had been a Huk since 1951, but surrendered in 1953 and thereafter lived for sometime in Mañosca's house; had accompanied Mañosca and Ramos to the conference with the rebel commanders; had witnessed the kidnapping of Wee King, and the subsequent division of Mañosca's P10,000.00 between Mañosca, Ramos and Mayor Orfanel of Catanauan, and had been given P300.00, apparently as a gratuity for his trouble.

The testimony of both witnesses and their credibility are vigorously assailed by the defense, mainly on the ground that they had, by their acts, shown to have been particeps criminis, yet had not been included in the Fiscal's information; and that they had been utilized as state witnesses without first being accused and previously discharged by the Court. As the trial judge remarked in his decision, however, the participation of these witnesses in the kidnapping had been more passive than active, being merely bystanders and onlookers, who failed to reveal to the authorities what they knew about the felony. While their testimony must be received with caution, the defense has not shown that they are wholly unreliable and underserving of the credence accorded them by the trial Court, who saw them testify and was thus in a better position to gauge whether they were telling the truth on the witness stand.[1] It is urged that not having been previously accused and discharged, these witnesses had no option but to testify as the prosecution desired; but mere suspicions are not enough to deprive them of credibility, without adequate showing that they had been asked and had agreed to prevaricate. At any rate, the confessions of the accused appellants themselves confirmed the testimony of both Ricaro and Molines on the essential points.

Both accused appellants contended that their extrajudicial confessions were obtained through torture and maltreatment. But there is nothing in record to corroborate the claim. They were ordered physically examined twice by physicians, upon representations and petition of the defense counsel, but no trace of maltreatment was found on their bodies as certified by the examining doctors, (Exhibits G, X and Y). While the last examination was only made on July 2, (the first was done on June 28) it is well to note that the wife of appellant Ramos had been allowed to visit him around the middle of June, and no proof exists that he complained then about having been maltreated or tortured. As to Mañosca, his confession was only executed on June 20, according to him, as a result of the violence practiced upon him, only twelve days before his physical examination.

To substantiate his claim of maltreatment, Mañosca asserted that he thought of varying his signature to his confession (Exh. B) from his usual signature (Exhibits 14 to 16). It is noteworthy, however, that when asked to sign the confession again in the presence of City Attorney Revilla, Mañosca, for no apparent reason, still used his allegedly deformed signature, instead of reverting to his former way of signing, thereby casting doubt on his version. Moreover, if the deformation had been done on the spur of the moment, as affirmed by this appellant, it is highly improbable that he could have maintained it without variation when he signed all the pages (4 each) of the original and copy of the confession. The signatures, moreover, show no sign of weakness or tremor. Nor did either appellant apprise Revilla that they were tortured when they swore to the same before said official.

The army investigators not only denied the torture and maltreatment claimed by Ramos and Mañosca, but revealed to the Court that Ramos had at first manifested to Colonel (now general) Manuel T. Yan that if the former's family were taken to Quezon City and thereby assure their safety, he (Ramos) would be willing to voluntarily tell his participation in the Wee King kidnapping. The request was complied with, and after the family of Ramos was brought, and his wife had visited him, Ramos confessed and disclosed everything, the conferences he attended with the Huk commanders before the kidnapping and how the crime was executed. The statements of Ramos were tape recorded besides being transcribed in writing (T.s.n., pp. 651-652). Lt. Burgos later replayed this confession to Mañosca, who after hearing it broke down and also confessed (T.s.n., pp. 627, 633). Mañosca's statements were first transcribed and later tape recorded, a fact admitted by this appellant on cross examination, albeit he asserted that what he spoke into the recorders he was made to read from his transcribed confession; but the claim can not be true, since the Court that heard the tape recording noticed some variation between the tape

recorded version and the written confession (T.s.n., p. 686), besides its being denied by the investigators.

Voluntariness of the confessions is likewise deducible from the contradictions between them and the testimony of prosecution witnesses Ricaro and Molines; and some of the statements of the confessants were plainly evasive or mitigating. Thus, while the prosecution witnesses denied that Huk commander Magtapat participated in the actual kidnapping of Wee King, Ramos in his confession positively identified Magtapat as having been among the kidnappers. Ramos stated that during the kidnapping Mañosca was present holding a rifle; but in his confession Mañosca claimed he was unarmed. And while Molines and Ricaro declared that Mañosca had been given P10,000.00 by the Huk commanders, the said appellant claimed he received only P300.00.

Finally a revealing detail is that disclosed by the victim, Wee King, in the course of his testimony, that while held a prisoner of the kidnappers in the mountains, his guards told him that Mañosca would be contacted for his release (T.s.n., p. 12). This is significant, because as pointed out in the appealed decision, the Huk guards then had no reason to assume that the victim's wife would seek Mañosca's intervention to obtain her husband's release, unless this appellant had previously conspired with the kidnappers.

In his defense, appellant Mañosca claims to have gone in company with Eugenio Patubo and Eladio de Roses to sitio Mahagakhak, which is about 11 kilometers from the poblacion (T.s.n., p. 546) to extract buntal fiber on 10 April 1954 and returned to Catanauan on the 23rd. For the entire venture, they earned P9.00 each. Appellant Ramos in turn claims to have been repairing his house in the poblacion when Wee King was kidnapped, had heard the commotion of the people and, out of fear, repaired to the house of Telesforo Cabangon where he was temporarily living.

These alibis are far from convincing. In the case of Mañosca, it is rather odd for him to have taken so much trouble for so long and for such small compensation, considering that he had a coconut plantation of his own, is an overseer of 500 hectares of coconut and buri and a cattle ranch, aside from being engaged in other gainful activities. With respect to Ramos, he was so near Wee King's place that during the kidnapping it was easy for him to have been there. The defense of alibi is so weak a defense that this Court had ruled that in order to be believed, there should be a demonstration of physical impossibility for the accused to have been at the scene of the crime at the time of its commission (Peo. vs. Limpo, et al., L-13058, 28 January 1961).

At the time the trial Court rendered its decision on 11 March 1957, Lucio Mañosca was 64 years old. He should now be 74. Article 47 of the Revised Penal Code prohibits the imposition of the death penalty when the guilty person is more than seventy years of age. A review of the aggravating and mitigating circumstances to determine whether reclusion perpetua or death should be imposed would be therefore, academic.

For the foregoing reasons, the appealed decision is hereby affirmed. No costs.

However, in view of appellant Lucio Mañosca's prolonged detention, having been detained from the inception of this case, and of his advanced age, the Court recommends that he be extended executive clemency. Let a copy of this decision be forwarded to His Excellency, the President of the Philippines, through the Department of Justice.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Peo. vs. Secapuri, L-17518, Feb. 28, 1966; Peo. vs. Tilaon, L-12406, June 30, 1961; Peo. vs. Lumayag, L-19142, March 31, 1965.

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