

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, LEONARDO TOLENTINO, ACCUSED, HAMID DUMA, ACCUSED-APPELLANT.

G.R. No. 50103. November 24, 1986

Ponente: FERNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-50103/>

FERNAN, J.:

In Criminal Case No. 151 of the then Court of First Instance of Basilan, Hamid Duma, Leonardo Tolentino and Romeo Palermo were accused of the crime of robbery with homicide said to have been committed as follows:

"That on or about the 23rd day of February, 1917 and within the jurisdiction this Honorable Court, viz., at the Office of the Zamboanga Coconut Planters Trading, Inc., Municipality of Isabela, Province of Basilan Philippines, the above-named accused, taking advantage of the night to better accomplish their purpose and forming a group of three [3] persons armed with axe, bolo and knife, conspiring and confederating together, aiding and assisting one another, and by means of violence and treachery, did then and there wilfully, unlawfully and feloniously, take, steal and carry away cash money in the amount of FOUR THOUSAND FOUR HUNDRED THIRTY-SEVEN PESOS [P4,437.80] and EIGHTY CENTAVOS, Philippine Currency, which money was placed inside a steel cabinet, belonging to the Zamboanga Coconut Planters Trading, Inc.; that in the commission of the crime above-described, the said accused did wilfully unlawfully and feloniously assault, attack, hack, stab and hit with said axe, bolo and knife one Benjamin Pollisco, thereby inflicting hacked and stabbed wounds upon his body which caused his death." [1]

In a decision promulgated on January 8, 1979, Romeo Palermo was acquitted on the ground of insufficiency of evidence while Hamid Duma and Leonardo Tolentino were found guilty as charged and sentenced to suffer the penalty of reclusion perpetua and ordered to indemnify the relatives of the victim the sum of P12,000.00 and the Zamboanga Coconut Planters Trading, Inc. the amount of P4,437.80 without subsidiary imprisonment in case of insolvency, in either case, and to pay the costs.

The judgment of conviction against Leonardo Tolentino has become final since he did not appeal therefrom.[2] On the other hand, the Court accepted on March 21, 1979 the appeal interposed by Hamid Duma. Thus, this review will deal only with said appeal.

The People narrates the facts as follows:

"The Zamboanga Coconut Planters Trading, Inc. was a corporation engaged in copra buying with branch office at Isabela, Basilan [pp. 4-5, tsn, June 3, 1977; p. 145, tsn, June 9, 1977]. It had only two security guards = deceased Benjamin Pollisco and accused Leonardo Tolentino [pp. 4-5, 8-9, tsn, June 3, 1977; p. 149, tsn, June 9, 1977; p. 197, tsn, July 6, 1977]. Appellant Hamid Duma and accused Romeo Palermo were laborers of the corporation [p. 5, tsn, June 3, 1977; p. 201, tsn, July 6, 1977].

"At about 6:45 p.m., on February 23, 1977, the security guard on duty was the deceased whose shift was from 3:00 p.m. to 11:00 p.m. [p. 14, tsn, June 3, 1977; p. 149, tsn, June 9, 1977; p. 198, tsn, July 6, 1977]. The shift of accused Tolentino was from 11:00 p.m. of the same day to 7:00 a.m. of the following day, February 24, 1977 [pp. 14, 29, tsn, June 3, 1977; p. 150, tsn, June 9, 1977; p. 198, tsn, July 6, 1977].

"At about 10:45 o'clock in the evening of February 27, 1977, Rasul Alibasa, the corporation's branch manager, and his asisistant, Domingo Araneta, arrived at the office of the corporation where they also resided. They had just come from a conference with Benjie Arsenia at Pardo's residence [pp. 17-18, 20, tsn, June 3, 1977]. Upon entering the door of their office, they saw a body sprawled on the floor. When the light inside the building was switched on, they identified the victim as Benjamin Pollisco whose body was full of blood. They also saw the steel cabinet in their office with its first drawer forced open and deformed. The steel cabinet was pushed to the floor so that its handles were facing upward [pp. 20-25, 28, 63-65, tsn, June 3, 1977; pp. 191-192, 221, tsn, July 6, 1977]. Immediately, they reported the incident to the nearby army detachment. Araneta called up by telephone the Integrated National Police [pp. 27-28, 65, 67, tsn, June 3, 1977; pp. 192, 221, tsn, July 6, 1977; p. 359, tsn, Oct. 6, 1977].

"In a few moments, military personnel and policemen arrived. During their investigation, the police found the steel cabinet of the corporation pushed down the floor with its handles up and its top drawer forcibly opened. Of the amount of P9,437.80 inside it, P4,437.80 was gone [pp. 23-24, 43, 65, 67, tsn, June 3, 1977; p. 92, tsn, June 8, 1977; pp. 147-148, 177, 182, tsn, June 9, 1977; p. 199, tsn, July 6, 1977; pp. 362, 364, tsn, Oct. 6, 1977].

"While the police authorities were still inside the building investigating and searching the premises for possible clues, at about 11:45 o'clock that night, appellant Hamid Duma appeared at the scene of the crime with bloodstains on his shirt [pp. 30, 68, tsn, June 3, 1977; pp. 193, 221, tsn, July 6, 1977; p. 366, tsn, Oct. 6, 1977]. Cpl. Conrado Francisco of the Integrated National Police investigated him. Appellant Duma admitted having participated in the commission of the crime [Exh. "J", pp. 5-7, Folio of Exhs.; pp. 30, 33, 35, 68-69, tsn, June 3, 1977; pp. 84, 86-87, 91, 100, tsn, June 8, 1977; pp. 194, 227-234, tsn, July 6, 1977; pp. 366-367, 381, tsn, Oct. 6, 1977]. His shirt was found to be positive of human blood [Exh. "L", p. 52, rec.; p. 257, tsn, July 7, 1977].

"A few minutes later, at about 12:10 a.m., of the following day, February 24, 1977, accused Tolentino also arrived at the scene of the crime without uniform and slippers and appeared drunk and aggressive [pp. 36-37, 69-70, tsn, June 3, 1977; pp. 119-120, tsn, June 8, 1977; p. 194, 198-199, tsn, July 6, 1977; p. 369, tsn, Oct. 6, 1977]. Immediately, appellant Duma pointed at him as one of those who killed the deceased [pp. 36, 70, tsn, June 3, 1977; p. 95, tsn, June 8, 1977; p. 195, tsn, July 6, 1977; pp. 371, 418, tsn, Oct. 6, 1977]. In the course of the investigation Tolentino by Cpl. Francisco Tolentino likewise admitted having participated in the commission of the crime [Exh. "B", p. 46, rec.; pp. 37-39, 70, tsn, June 3, 1977]. His shirt was also found to be positive of human blood [Exh. "K", p. 52, rec.; pp. 39-40, tsn, June 3, 1977; p. 256, tsn, July 7, 1977]. When Tolentino was searched, the police found a knife [Exh. E] tucked to his waist, [pp. 42-43, tsn, June 3, 1977]. Tolentino led the lawmen to his room and showed an ax and bolo [Exh. D] under his bed [p. 39, tsn, id.].

"Both appellant Duma and accused Tolentino implicated accused Romeo Palermo as their companion in the commission of the crime. Palermo, however, denied participation [p. 53, tsn, June 5, 1978; pp. 96, 99, tsn, June 6, 1978]. When searched, Palermo had P100. 00 in cash in is possession (pp. 376, 394, tsn, Oct. 6, 1977). His shirt which was full blood was found in the house of his parents [pp. 16-19, tsn, June 3, 1977; pp. 373-375, tsn, Oct. 6, 1977]. On the night of the incident instead of sleeping in his parent's house, Palermo slept in the house of Selsa Montez [pp. 373-374, 393, tsn, Oct. 6, 1977; p. 23, tsn, May 16, 1978; p.6, tsn, June 5, 1978].

"During the preliminary investigation before the Provincial Fiscal of Basilan, both appellant Duma and accused Tolentino confessed participation in the commission of the crime [Exhs. "P" and "Q", pp. 33-66 and 9-26, respectively, Folio of Exhs.; pp.304-316, tsn, Aug. 10, 1978]. Accused Palermo, however, refused to confess and denied having participated in it [p. 64, tsn, June 6, 1978].

"A certification issued by Dr. Purita Suson, Municipal Health Officers Isabela, Basilan, showed that the deceased suffered the following injuries:

- Hacked wound, multiple, face, right.

- Hacked wound, temporal region, right.
- Stabbed wound, ear, left.
- Contusion with abrasion, face, left.' [Exhs. "G" and "H", pp. 2 and 3, respectively, Folio of Exhs. pp. 124-126, 132, 133, tsn, June 9, 1977].

His death was instantaneous due to "Hemorrhage secondary to multiple hack, lacerated and stab wounds [Exhs. "G-2" and "H-3", pp. 2 and 3 respectively, Folio of Exhs.; p. 141, tsn, June 9, 1977; p. 361, tsn, Oct. 6, 1977].

"The amount of P5,000.00 was found by Rasul Alibasa and the police officers in the first drawer of the steel cabinet mixed with other documents. It was subsequently deposited with the Office of the Municipal Treasurer [pp. 43-46, tsn, June 7, 1977]."[3]

On the other hand, appellant's version of the incident is as follows:

"On February 23, 1977, at or about 7:00 o'clock in the evening, appellant and some of the laborers thereof were still in the premises of the Coconut Planters at Weyerheuser, Isabela, Basilan, on account of management's order that it was expecting delivery of copra from the coconut producers from Sumisip, Basilan Province [testimony of Fausta Tagud, t.s.n. page 181, Volume I].

"When management was certain that no copra delivery was forthcoming, most of the laborers, including the herein appellant, went home or at least, left the premises of the Coconut Planters compound leaving the manager, Rasul Alibasa alone with the deceased, Benjamin Pollisco, in the office of the Coconut Planters, Isabela, Basilan [testimony Fausta Tagud, t.s.n. pages 175 and 184, Volume I].

"At or about 7:30 o'clock in the evening, Rasul Alibasa together with Domingo Araneta left the office of the Coconut Planters on board a motorcycle and proceeded to Sariling Atin, a restaurant located at the poblacion of Isabela, their supper, and the only persons who were left in the office of the Coconut Planters were Benjamin Pollisco and Romeo Palermo. After taking their supper thereat, they went bath to the office of the Coconut Planters for Alibasa's jacket and, thereupon, they saw Benjamin Pollisco and Romeo Palermo therein. The time was 8:10 o'clock in the evening. A little later, Alibasa and Araneta, on board a motorcycle went to Pardo's residence, a place situated nearby on the invitation of one Benjie Arsenia for a conference. At 10:45 o'clock in the evening, or thereabout, Alibasa and Araneta went back to the office at the Coconut Planters, a place which was used by Alibasa as his sleeping quarter, and therein found Benjamin Pollisco, a security guard thereof, dead. [Testimony of Rasul Alibasa, t.s.n., pages 18-25, Volume I].

"Having found the dead body of Benjamin Pollisco thereat, said Alibasa and Araneta immediately sought the assistance of the police, and the army soldiers at a nearby military detachment, which was only a few meters distance from the scene of the crime. Pursuant thereto, Sgt. Mabalot of the Philippine Army and his men responded [sic] the call and about half an hour later, a team of policemen headed by homicide investigator, Corporal Conrado Francisco, arrived thereat and who, thereupon, made his ocular inspection of the crime scene and other police routinary investigation thereof.

"The investigation of Conrado Francisco revealed that the top drawer of the steel filing cabinet therein was forcibly opened and the money inside in the sum of P4,437.80 was missing but the sum of P5,000.00 was not, however, taken and remained inside the drawer mixed with other papers and other documents therein.

"In the meantime, the appellant, whose house is situated within the Weyerheuser compound, has to pass through the gate of the said compound in going to and from the poblacion of Isabela, Basilan. Incidentally, at or about 11:00 o'clock in the evening of February 23, 1977, appellant, while on his way home from a drinking joint at Tondo, Isabela, Basilan, and upon reaching the gate of the Weyerheuser compound, for no apparent reason and without provocation on his part, was mauled and assaulted by a group soldiers there and, who thereafter, brought him to the office of the Coconut Planters for investigation in connection with the death of

Benjamin Pollisco, with his mouth splattered with blood and other body injuries sustained by him as a result thereof [Testimony of Hamid Duma, t.s.n. pages 10-20, Volume II].

"Appellant was immediately pointed to by Rasul Alibasa apparently on account of the blood stains splattered on appellant's shirt as a result of the body injuries sustained by him from the foregoing beatings. By reason thereof, the appellant was immediately placed under custodial investigation and focusing on him as the principal suspect in the killing and robbery of February 23, 1977 mentioned above. From 12:00 o'clock midnight of February 23, 1977 till 2:00 o'clock of the following day, appellant, in the course of the interrogation, had vomited blood and left unconscious for a period of one hour as a result of the continuous beatings and assault upon his person by Conrado Francisco, PC Rebolos and a certain Sammy. When appellant can no longer sustain the beatings, assault, maltreatment and intimidations of death upon him by Francisco and his men, he was finally compelled falsely admit and make untruthful statements incriminating himself and his two other co-accused. [Testimony of Hamid Duma, t.s.n. pages 13-20, Volume II].

"After having falsely admitted participation in the killing of Benjamin Pollisco and the robbery therein, appellant was immediately brought to the police station by Corporal Francisco and his men after passing by the Army Battalion at Menzi, Isabela wharf; Tondo and Sta. Cruz, Isabela, Basilan.

"At the police station, appellant's right hand was handcuffed by Corporal Francisco and thereafter, hanged by his right hand until only his toes were touching the floor of the police station. Appellant's statement, however, was taken at the police station by Corporal Francisco at 2:20 o'clock in the morning of February 24, 1977 as borne out in Exhibit "J" for the prosecution and admission of Corporal Conrado Francisco [Cross-examination on Conrado Francisco, t.s.n. page 4-8, Volume I]. On the same date, appellant was brought before Ruben Ramos, Clerk of Court II, Municipal Court of Isabela, Basilan before whom the statement of appellant was sworn to and subscribed. The appellant simply did not register his complaint to the said clerk of court indicating the circumstances under which Exhibit "J" was taken for fear of his life and other forms intimidations by Corporal Francisco should appellant show the slightest sign of non-conformity in affixing his signature in the prepared statement [Exhibit "J"] before Ruben Ramos [Testimony of Hamid Duma, t.s.n. pages 4-30, Volume II]. Thereafter, appellant was held incommunicado (sic) for the period of one week.

"On March 5, 1977, in a preliminary investigation conducted by the Provincial Fiscal of Basilan, the appellant and his co-accused were not assisted by counsel or informed such right nor were they informed of their right to remain silent pursuant to Section 20, Article IV of the 1973 Constitution [Cross-examination on (sic) Pelagio Santos, t.s.n., pages 325, Volume I, S. Manzanaris]. And while the Provincial Fiscal had not intimidated appellant and his two other co-accused into submitting themselves to preliminary investigation, the presence of Corporal Conrado Francisco, who remained outside of the Fiscal's Office and monitoring the proceedings therein to the mind of the appellant, was enough intimidation to himself into repeating the untruthful statements treated in Exhibit "J" during the preliminary investigation." [4]

Since there was no eyewitness to the commission of the crime, the trial court, in assessing the evidence, accorded importance to [a] the in-custody confession of appellant which it characterized as voluntary; [b] the circumstance that appellant's shirt (Exhibit "O") was "found to be with human blood"; and [c] the circumstance that appellant, who was an ordinary laborer of the Zamboanga Coconut Planters Trading, Inc. "appeared at the office at 11:45 in the evening of February 23, 1977 when it was not his duty to go to the office at that time for as stated by witnesses both for the prosecution and the defense, that at 6:45 p.m., the laborers were informed that no copra would be forthcoming and that they could go home". [5]

The main thrust of appellant Duma's arguments is that the trial court erred in convicting him on the basis of his extrajudicial confession [Exhibit "J"] allegedly obtained in violation of Section 20, Article IV of the 1973 Constitution, which provides:

"SEC. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the

commission of an offense shall have the right to remain silent and to counsel, and to be informed such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence."

Appellant claims that his confession should have been ruled out as evidence as it was extracted "as a result of torture, intimidation, force, threats, violence and coercion upon his person" and without the assistance of counsel.

After a careful review of the records, we find for the appellant. We hold that his in-custody confession is not admissible in evidence and that the remaining circumstantial evidence does not fulfill the degree of moral certainty required to sustain the judgment of conviction.

It appears that in giving credence to the confession, the trial court applied the rule in *People vs. Castro*,^[6] where it was stated that the burden of proof to show the involuntariness of a confession rests on the accused. The trial court concluded that since herein appellant failed "to adequately meet or put up convincingly this burden of proof," the presumption of voluntariness stands and the fact that the same was obtained from him while under arrest does not affect its admissibility. However, the *Castro* ruling, which is premised on the presumption of regularity of official acts, is no longer controlling in so far as it concerns the application of Section 20, Article IV of the 1973 Constitution.

In *People vs. Duero*,^[7] the Court en banc pronounced that the rights enumerated in Section 20, except the first sentence, were adopted from *Miranda vs. Arizona*,^[8] a case decided by the United States Supreme Court on June 13, 1966. This Court then ruled that "inasmuch as the prosecution failed to prove that before Duero made his alleged oral confession he was informed of his rights to remain silent and to have counsel and because there is no proof that he knowingly and intelligently waived those rights, his confession is inadmissible in evidence." In effect, the Court not only abrogated the rule on presumption of regularity of official acts relative to admissibility of statements taken during in-custody interrogation but likewise dispelled any doubt as to the full adoption of the *Miranda* doctrine in this jurisdiction. It is now incumbent upon the prosecution to prove during a trial that prior to questioning, the confessor was warned of his constitutionally protected rights.

In *Miranda*, Chief Justice Warren, who delivered the opinion of the Court, laid down the rule on admissibility of statements, i.e., that the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination.^[9] The heavy burden is on the prosecution because the State is responsible for establishing the isolated circumstance under which the interrogation takes place and has the only means of making available corroborated evidence of warnings given during incommunicado interrogation.^[10] Precisely, the *Miranda* doctrine was formulated to counteract the incommunicado police-oriented atmosphere during custodial interrogation and the evils it can bring.^[11]

Prescinding from these principles, the U.S. Supreme Court enumerated the procedural safeguards which must be adhered to as follows:

"At the outset, if a person in custody is to be subjected to interrogation, he must be informed in clear and unequivocal terms that he has the right to remain silent.

"The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences foregoing it.

"An individual need not make a pre-interrogation request for a lawyer. While such request affirmatively secures his right to have one, his failure to ask for a lawyer does not constitute a waiver. No effective waiver of the right to counsel during interrogation can be recognized unless specifically made after the warnings we here

delineate have been given. The accused who does not know his rights and therefore does not make a request may be the person who most needs counsel.

"In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him.

"Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at anytime prior to or during questioning, that he wishes to remain silent, the interrogation must cease. x x x If the individual cannot obtain an attorney and he indicates that he wants one before speaking to police, they must respect his decision to remain silent.

"If the interrogation continues with-out the presence of an attorney and a statement is taken, a heavy burden rests on the government to demonstrate that the defendant knowingly waived his privilege against self-incrimination and his right to retained or appointed counsel." [12]

The admission of appellant Duma's in-custody confession having been based on an abandoned doctrine, there is a need to re-evaluate the evidence of the prosecution.

The Solicitor General maintains that the appellant was duly informed of his constitutional rights to remain silent and to counsel. However, the following revealing testimonies of at least three of the prosecution witnesses indicate otherwise:

Cpl. Conrado Francisco, before whom the statement was taken, testified:

"Q.

Do you expect, Mr. Francisco, that Hamid Duma could possibly communicate at 2:20 in the morning of February 24, 1977 to any member of the bar at least to assist him in the investigation conducted by you on February 24, 1977?

A.

As it is stipulated therein that if he is willing to hire or look for a counsel to assist him in the investigation or the investigator concerned will be the one to afford him.

Q.

Why do you have to conduct this Investigation at 2:20 in the morning of February 24, 1977 when you could have waited, let's say, at 8:00 o'clock, 9:00 clock, or 10:00 o'clock in the morning so that he could, at least, have a chance to look for or to, at least, look for a lawyer or to inform his relatives requesting for assistance of a lawyer in the investigation?

A.

I would like to tell this Honorable Court that element of time is very important, sir." [Vol. I, T.S.N., Octobers 6, 1977, pp. 432-433] (Underscoring supplied).

Ruben Ramos, the Clerk of Court, before whom the statement was subscribed and sworn to stated:

"Q.

The affiant was not aided nor accompanied by a counsel when he appeared before you to sign this document?

A.

I have not seen any counsel.

Q.

My question is, was he accompanied or aided by counsel?

A.

No, he was not accompanied. He was only brought in by the interpreter. [Vol. I, T.S.N., July 6, 1977, pp. 236-237].

Q.

According to you, you only asked of him that whatever statement embodied in Exhibit "J" may or may not be used against him and he voluntarily said that the statement as embodied in Exhibit "J" are voluntary?

A.

Yes.

Q.

And on that basis, he signed this statement?

A.

And I asked him whether he was willing to sign his statement and he said he is signing that voluntarily.

Q.

He was not assisted by any counsel?

A.

Not.

Q.

Of course, you did not inform him that he has a right to be presented by counsel?

A.

I did not inform him any more inasmuch as the Judge was there.

Q.

You did not inform him whether he can remain silent or he can refuse?

A.

I informed him. That is why I said he can sign or not sign that document and he said he is willing to sign.

Q.

You did not inform him that he has a right to be represented by counsel because Judge Principe was present at the time when he signed this document?

A.

I did not bother." (Vol. I, T.S.N., July 7, 1977, pp. 243-244]. (Underscoring supplied)

Pelagio S. Santos, the Court Stenographer of the Court of First Instance of Basilan who acted as stenographer in the preliminary investigation conducted in the office of the Provincial Fiscal on March 5, 1977, declared:

"Q.

At the start of this investigation all the three accused in this case were not represented by counsel?

A.

No, sir.

Q.

And were they informed by the Provincial Fiscal to Basilan to the effect that they are entitled to counsel considering the nature or gravity of the case they are being subjected to at that time?

FISCAL SAAVEDRA:

I think the best evidence, Your Honor, I would like to object on the question. The best evidence is the record of the stenographic notes.

xxx xxx xxx

COURT:

Then the record is the best evidence. However, you will ask the question not in relation to the record, you may be allowed.

xxx xxx xxx

A.

No, sir, because if they were will be reflected, on the record." [Vol. I, October 6, 1977, pp. 321-322] (Underscoring supplied)

The statement of Hamid Duma given to Cpl. Francisco in the Office of the Investigation Section on February 24, 1977 at 2:20 a.m. contains the following preliminaries:

"PRELIMINARY:

You were under investigation for the murder of BENJAMIN POLLISCO, of legal age, married, Security Guard of the Zamboanga Coconut Planters, Basilan Branch, and a resident of San Rafael St., Isabela, Basilan Province. You have the right to remain silent, anything you may declare hereof may be used in evidence against you. You have the right to assistance/presence of a counsel at your own choice.

Q.

Do you want to declare in this investigation or you want to remain silent?

A.

Yes, sir, I will declare in this investigation.

Q.

Do you need the assistance/presence of a counsel in this investigation?

A.

No, sir, I do not need the assistance/presence of a counsel in this investigation for what I will declare here is the truth and nothing but the whole truth".[13]

Assuming that the foregoing questions were propounded to appellant despite the latter's assertion to the contrary, still, it is not the kind of waiver contemplated in *Miranda*, which dictates that it must be made voluntarily, knowingly and intelligently. Moreover, appellant was not informed of another absolute prerequisite - that if he is indigent, a lawyer will be appointed to represent him. Without the additional warning, the admonition of the right to consult with counsel would often be understood as meaning only that he can consult with a lawyer if he has one or has the funds to obtain one. The warning of a right to counsel would be hollow if not couched in terms that would convey to the indigent - the person most often subjected to interrogation - the knowledge that he too has a right to have counsel present and only by effective and express explanation to the indigent of this right can there be assurance that he was truly in a position to exercise it.[14]

Since the prosecution utterly failed to demonstrate compliance with the procedural safe-guards, the Court finds the extrajudicial confession objectionable and therefore inadmissible in evidence for being in violation of the inhibition against compulsory self-incrimination.

With the exclusion of the confession of Duma, there is no necessity to deliberate on the appellant's allegations of intimidation and maltreatment which attended its execution.

As aforesaid, the other circumstantial evidence failed to produce the degree of moral certainty to overcome the constitutional presumption of innocence of the appellant.

The prosecution inferred that the appellant must be guilty of the crime charged because of the bloodstains on his shirt. However, this circumstance merits scant consideration, there being no other evidence to support the inference. Prosecution witness Oliva Perez, the forensic chemist of the PC Criminal Laboratory who conducted a test on the bloodstains, testified that she failed to ascertain the blood type on the shirt.[15] She further testified that the blood type of the deceased was also not determined because when the specimen reached the laboratory, it was already "putrified and rendered unsuited for examination".[16] Hence, the tests neither confirmed nor refuted appellant's claim that the blood stains were that of his own.

While flight, when unexplained, is presumptive evidence of guilt, mere presence of the accused within the vicinity of the scene of the crime barely three hours after its commission raises no such presumption. This proposition is supported by Duma's explanation that at or about 11 o'clock in the evening of February 23, 1977, upon reaching the gate of the Weyerhaeuser compound on his way home, he was spotted by the investigators and then mauled. Moreover, it has not been disputed that appellant's house is situated within the Weyerhaeuser compound and that he has to pass through the gate of the said compound in going to and from the poblacion of Isabela, Basilan.

Even assuming that appellant appeared at the office at the time when the investigation was going on, although he had no business to be there, as claimed by the prosecution, still, this has no probative value. Guilt is not imputable to Duma for his actuation is susceptible of two interpretations. Thus the time-honored principle in criminal law that if the inculpatory facts are capable of two or more explanations, one consistent with the innocence of the accused and the other with his guilt, the Court should adopt that which is more favorable to the accused for then the evidence does not fulfill the test of moral certainty, finds application in this case.[17] This is rightly so as every circumstance against guilt and in favor of innocence must be considered and suspicion no matter how strong should not sway judgment, for well-established is the rule that the prosecution must rely on the strength of its evidence and not on the weakness of the defense.[18]

Finally, in *People vs. Peralta*,[19] it was held that the presence of the accused in the place in question shortly after the commission of the offense is a circumstance favorable to him, because, as a general rule, the wicked flee when no man pursueth, but the righteous are as bold as a lion.

WHEREFORE, the decision of the Court of First Instance of Basilan in Criminal Case No. 151 is hereby REVERSED and the appellant Hamid Duma is ACQUITTED of the crime charged on grounds of reasonable doubt, with costs de oficio. In view of the circumstances obtaining in the case which cast doubt on the validity and admissibility of the statements of the co-accused Leonardo Tolentino who was likewise convicted by the trial court but who for reasons not shown in the record failed to appeal, let a copy of this decision be furnished the Honorable Minister of Justice for possible recommendation of executive clemency.[20]

SO ORDERED.

Feria, (Chairman), Alampay, Gutierrez, Jr., and Paras, JJ., concur.

[1] p. 6, Rollo.

[2] Apparently, accused Leonardo Tolentino was confident that his conviction had been appealed to this Court. In a letter dated April 4, 1980, he moved to withdraw his appeal. Said letter was noted by the Court and Tolentino was accordingly informed that "there was no appeal to withdraw."

[3] pp. 3-7, Brief for the Appellee

[4] pp. 3-8, Brief for the accused-appellant.

[5] p. 17, Rollo.

[6] 11 SCRA 699.

[7] 104 SCRA 379.

[8] 384 U.S. 436, 16 L. Ed. 2nd 694.

[9] *Miranda vs. Arizona*, supra, p. 706. [Underscoring supplied]

[10] *Miranda vs. Arizona*, supra, p. 724.

[11] *Miranda vs. Arizona*, supra, p. 713.

[12] *Miranda vs. Arizona*, supra, pp. 720-724.

[13] Exhibit "J", p. 5, Original Exhibits.

[14] *Miranda vs. Arizona*, supra, p. 723.

[15] Vol. I, t.s.n., July 7, 1977, p. 261.

[16] Vol. I, t.s.n., July 7, 1977, p. 272.

[17] *People vs. Santos*, 85 SCRA 630.

[18] *People vs. Clores*, 125 SCRA 67, citing *People vs. Inguito*, 117 SCRA 641.

[19] 67 Phil. 293.

[20] *People vs. Inguito*, 117 SCRA 641.

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.