

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRISPIN ROYO AND MARIANO MAGLENTE, ACCUSED-APPELLANTS.***G.R. No. 52038. May 31, 1982*

Ponente: AQUINO, J.

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Crispin Royo and Mariano Maglente appealed from the decision of the Circuit Criminal Court of Manila, finding them guilty of murder, sentencing each of them to reclusion perpetua and ordering them to indemnify solidarily the heirs of Carmen Huelva-Lim Chan in the sum of twelve thousand pesos (Criminal Case No. 2684).

At about noontime of October 12, 1977, the dead body of Carmen H. Chan, a fifty-one-year-old widow, was found between a partition and a printing machine on the ground floor of her three-story house located at 432 Jaboneros Street, Binondo, Manila.

The autopsy disclosed that she died due to manual strangulation and multiple stab and "blunt" wounds between three and six o'clock in the morning of October 12, 1977 (27 tsn March 8, 1978; Exh. C and D).

The external injuries consisted of (1) a contused lacerated wound in the forehead, (2) lacerated wound in the basion, (3) lacerated wound in the supraorbital area of the left eye, (4) contusions on the lips, (5) five contusions over the left lower jaw, (6) small lacerated wound near the right corner of the mouth, (7) nail scratches on the slightly swollen and purplish neck, (8), (9) two penetrating stab wounds in the chest lacerating the heart, (10), (11), (12) three stab wounds also in the chest lacerating the heart, (13) nine semi-circular contused, penetrating wounds in the chest, (14) and (15) two lacerated wounds on the scalp.

There were hematomas on the lower anterior chest extending to the epigastric region and on the larynx and surrounding soft tissues. The victim's nasal bones, ribs, malar bones and alveolar process were fractured.

Crispin Royo, 20 (19), a former household helper of Carmen Chan, who had stayed with her family for three years, was arrested in the afternoon of the following day, October 13, 1977, in connection with the killing. He made a handwritten confession at eight-thirty in the evening. He admitted that he stabbed the victim. Royo stated that the killing was suggested by Mariano Maglente (Jun), who like Royo is from Masbate and who also used to work as a house-boy of the Chan family. Although Maglente had found another job in Tayuman Street, he used to visit Royo on Sundays in the house of Carmen H. Chan. Royo's confession reads as follows:

" Sabi ni Jun sa akin na patayin ko si Miss Chan kasi manloloko daw si Miss Chan kaya inutusan ako ni Jun. Kasi kung magpatrabaho paabot ng alas dose ng gabi umpisa sa alas saing ng umaga. Ang pagkain ay parang sa baboy.

" Ang suweldo namin sa isang semana ay sampung piso lang kaya nagalit kami kay Miss Chan, kaming lahat na trabahador. Kaya mayroong nag- utos sa akin, si Jun, na patayin si Miss Chan.

" Sinabi ko oo, papatayin ko. Sabi ni Jun magkita kami ni Jun kung hindi 9 12 ng buwang ito. Nagkita kami noong 9. Sabi ko sa kanya hindi ko magagawa. Sabi ni Jun sa dose na lang.

" Nagkita kami ng dose, alas sa isang umaga tapos binigay niya ang kutsilyo. Pagdating ko sa bahay, nag-bukas na siya ng pinto. Inutusan ako na magtapon ng basura.

" Pagdating ko sa loob, binunot ko ang kutsilyo sa bulsa. Pagkatapos lumapit sa akin si Miss Chan, pagkatapos sinaksak ko ng dalawa o tatlong beses. Natumba siya, tapos umalis na ako.

" Pumasok si Jun, pagkatapos hindi ko na nakita." (Exh . F).

Patrolman Ilagan testified that the foregoing confession does not contain any advertence as to Royo's constitutional rights because Royo simply asked for a piece of paper so that he could write his confession. According to Ilagan, he verbally informed Royo of his constitutional rights.

Elizabeth Chan, 22, the victim's daughter, testified that at about seven o'clock in the morning of October 12, 1977, she spotted Maglente walking on Jaboneros Street and turning on San Fernando Street.

Maglente was arrested. He was confronted with Royo's confession. He denied any complicity in the killing. Royo executed another confession at about ten o'clock in the evening of October 13, 1977. It was typewritten. He again implicated Maglente. He fingered Maglente who was present during the investigation. He identified the weapon he used in stabbing Carmen Chan, the plastic printing press roller used by Maglente (Exh. I) and the pants, smeared with blood, which he wore during the killing (Exh. J).

On October 14, 1977, at about six-thirty in the evening, Royo reenacted the killing at the scene of the crime. Maglente, who was present, did not participate in the re-enactment. However, when arraigned on the charge of murder, Royo, like Maglente, pleaded not guilty.

The trial court in convicting Royo found that his two confessions were voluntarily executed.

Royo's case. - Royo, a native of Tinigban, Aroroy, Masbate, who finished Grade six, recounted in his typewritten confession that at about six o'clock in the morning of Wednesday, October 12, 1977, Maglente gave him a kitchen knife, while they were at San Fernando Street, Binondo. Maglente told him that he (Maglente) would wait for Royo at the corner of Jaboneros and San Fernando Streets.

Armed with the knife, Royo went to the house of Mrs. Chan on Jaboneros Street. He saw her opening the door. She told Royo to get the garbage can. Royo disposed of the garbage and reentered the ground floor of the house to return the garbage can. Mrs. Chan told him to get out, actually pushing him, and, as she did so, Royo stabbed her in the chest. Maglente entered the ground floor and hit Mrs. Chan with a printing press roller (Exh. I) . Royo fled to Saluysoy, Meycauayan, Bulacan.

Royo identified the knife which he used and which was found at the scene of the crime. He disclosed that the motive for the killing was Mrs. Chan's beastly treatment of himself and Maglente. His exact words were: "Alas 12:00 nang gabi kami pinahihinto mula nang alas 6:00 na aga ang kain para sa baboy." (No. 39, Exh . G).

While Royo's confession was being taken, Maglente was present at the investigation room. The investigator asked Royo to point to Maglente. Royo complied and pointed to Maglente (No. 40, Exh. G).

The following notice and waiver of his constitutional rights are found in Royo's second confession:

"01. Tanong: Ikaw ba ay nahahandang magbigay nang isang malaya at kusang-loob na salaysay at sagutin nang buong katutuhanan lamang ang lahat nang aming itatanong sa iyo tungkol sa imbistigasyong ito at ipinaalam na-min sa iyo na ano mang iyong sasabihin dito ay maaaring gamitin sa iyo sa alin mang hukuman dito sa Pilipinas? - Sagot: Oho.

"02. T. Ipinataalam ko sa iyo na itong salaysay mo sa amin ay bilang paglinaw sa nauna mong salaysay sa amin

kaninang alas 8:30 nang gabi, petsa 13 nang Oktubre 1977 tungkol sa pagkasaksak mo kay Mrs. Carmen Chan noong petsa 12 nang Oktubre 1977, naiintindihan mo ba ito? - Sagot: Oho.

"03. T. Bago ang lahat ay inuulit ko sa iyo ang iyong karapatan sa ating Bagong Saligang Batas (Article 4, Section 20) at ang mga iyan ay ang mga sumusunod:

"1 . Ikaw ay nahaharap tungkol sa imbigtasiyong ito tungkol sa pagkamatay ni Mrs. Carmen Chan nang bandang alas 6:00 nang umaga petsa 12 nang Oktubre 1977 sa loob nang bahay nito sa 432 Jaboneros, Binondo, Manila. Naiintindihan mo ba ito ? - Sagot: Oho.

"2 . Ikaw ay may karapatang kumuha nang abogado na iyong nanaisin na humarap para sa iyo sa imbigtasiyong ito o kung wala kang abogado ay mabibigyan ka namin nang abogado na haharap para sa iyo sa imbigtasiyong ito nang walang bayad. Ano ang masasabi mo? - Sagot: Magbibigay ako nang katutuhanan ho.

"3 . Ikaw ay may karapatang huwag magbigay nang salaysay kung iyong nanaisin. Ano ang masasabi mo? - Sagot: Magbigay ako.

"4 . Ikaw ay may karapatang huwag sumagot sa alin mang katanungan namin na iyong nanaisin. Ano ang masasabi mo? - Sagot: Magsagot ako.

" Sgd. Crispin Royo

CRISPIN C. ROYO

"WITNESSES:

RODOLFO S. ILAGAN

RODOLFO JANER

"Subscribed and sworn to before me this 13th day of October 1977 in the City of Manila.

Sgd. BALTAZAR DIZON

(Assistant Fiscal of Manila)

Administering Officer"

An examination of that confession reveals that the police investigator endeavored to comply with the constitutional requirements by apprising Royo of his rights to have counsel and to remain silent and by securing from him a waiver under oath of those rights. The swearing officer, Fiscal Baltazar Dizon, also apprised him of his constitutional rights (22 tsn October 9, 1978).

Royo testified briefly at the trial. He declared that the charge that he killed Mrs. Chan was not true. On April 30, 1979 (after the prosecution had closed its evidence), he executed in the chapel of the city jail before a police captain an affidavit wherein he said that "Mariano Maglente ay walang kasalanan sa pagkamatay ni Carmen Chan" (par. 4, Exh. 2, p. 115, Record).

In that affidavit, Royo also said: "Na ako ay binugbog ng mga Pulis sa Detective Bureau ng Homicide bago kami ay dinala dito sa Manila City Jail, at walang mga declaration o 'statement' na ibinigay ko sa Pulis na kasama ko si Mariano Maglente noong fecha 12 ng Oktubre, 1977 sa Jaboneros, Binondo, Maynila, noong nakitang patay si Carmen Chan ng mga pulis." (No. 5, Exh. 2).

It is evident that Exhibit 2 is in the nature of a retraction of the statements in his two confessions implicating Maglente in the killing of Mrs. Chan. It has no probative value because it was obviously an afterthought, a belated

self-serving declaration designed to exculpate Royo and Maglente. It was by means of that 1979 affidavit that Royo repudiated his 1977 confessions.

Royo's testimony on direct examination consisted merely of his denial that he killed Mrs. Chan and his identification of his affidavit repudiating his prior confessions. On cross-examination, he admitted that he had never complained to the authorities about any maltreatment.

The issue is whether Royo's confessions are admissible under Article IV of the 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 of 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."

Section 20 refers to confessions taken during custodial interrogation. We agree with the trial court that Royo's confessions were voluntary. One tell-tale badge of the spontaneity and regularity of the second confession is the fact that Royo used therein Visayan words, aside from Tagalog words. That shows that the investigator took down his answers verbatim and did not alter the same.

But did Royo waive his constitutional rights to have counsel and to remain silent when he executed those confessions?

The rule is that "a defendant may waive effectuation of his rights to remain silent and to be assisted by counsel at a custodial police interrogation, provided the waiver is made voluntarily, knowingly, and intelligently" (Syllabus, *Miranda vs. Arizona*, 16 L. Ed. 2d 694, 697, 706-707).

We hold that under the circumstances surrounding the execution of Royo's second pre-trial confession, especially the warning and notice to him of his constitutional rights, which he waived under oath, he made a valid renunciation of the said rights. Consequently, the confessions are admissible. His conviction can be predicated thereon. A different holding would result in a palpable miscarriage of justice.

Maglente's case. - As already stated, Royo in his two confessions implicated Maglente in the killing of Mrs. Chan by stating that it was Maglente who suggested the killing and that it was Maglente who used the printing press roller in bludgeoning the victim. Elizabeth Chan testified that she saw Maglente on Jaboneros Street early in the morning of the day when her mother was killed. Maglente did not testify at the trial.

Royo's confessions are not admissible against Maglente because they are hearsay and *res inter alios acta* as to Maglente. Royo did not testify on the confessions. In his later affidavit, he swore that Maglente had nothing to do with the killing of Mrs. Chan and that his confessions were induced by maltreatment (Exh. 2). Without Royo's confessions, there is no evidence against Maglente. The Solicitor General recommended his acquittal.

WHEREFORE, the lower court's judgment is affirmed as to Crispin Royo and reversed as to Mariano Maglente who is hereby exonerated because the evidence showing that he was a co-principal by inducement and direct participation is inadmissible. Costs de oficio.

SO ORDERED.

Barredo, (Chairman), Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., J., on leave.

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