

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
AUGUSTO PIZARRO AND BOY MAMURI, (AT LARGE) ACCUSED.  
AUGUSTO PIZARRO, ACCUSED-APPELLANT.**

*G.R. No. 62593. August 31, 1984*

Ponente: RELOVA, J.

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**RELOVA, J.:**

The charge is murder and accused Augusto Pizarro was convicted by the trial court and sentenced to "suffer the penalty of life imprisonment or reclusion perpetua; to pay the heirs of the deceased Cornelio Sabalboro in the sum of twelve thousand pesos (P12,000.00) without subsidiary imprisonment in case of insolvency, to suffer all the accessory penalties provided for by law, and to pay the costs. The accused shall be credited with the full period of his detention." (p. 14, Rollo)

Prosecution evidence shows that Rogelio Sabalboro was on June 15, 1980, at about 2:00 in the afternoon, in his house at Talahib, Lumbang, Laguna, when he heard a shot coming from the house of his brother Cornelio, some fifty (50) meters away. He immediately went to see what it was all about and, on his way, met three (3) persons coming from his brother's house. Augusto Pizarro was one of them; and a companion warned him not to report the matter to the police otherwise he and his family would be liquidated.

The trio then proceeded to the direction of the forested area. Meanwhile, Rogelio Sabalboro returned home to tell his mother that his brother Cornelio had been shot, following which he went to report the matter to the barangay captain at Caliraya.

The barangay captain fetched a peace officer and they brought the remains of Cornelio to the poblacion of Lumbang.

Dr. Rogelio Javan, Municipal Health Officer, conducted the autopsy and his report shows that the deceased died of "massive hemorrhage and brain damage secondary to gunshot wounds of the head. (Exhibit "A"). PC Sgt. Laureano Luzaran testified on his investigation of accused Augusto Pizarro and identified the latter's written statement (Exhibit "E") admitting participation in the assault on Cornelio Sabalboro and thumbmarked before Assistant Fiscal Benjamin Agarao. In said Exhibit "E", appellant admitted that they were paid to liquidate the deceased who was interested in working on the land worked by the one who induced them to kill the latter. His companion Sofronio Villanueva poked a gun at the head of Cornelio Sabalboro and fired it causing the latter to fall to the ground. He (appellant) acted as "alalay" in accomplishing the act. They were paid P400.00, P50.00 of which was given him by Sofronio Villanueva.

With the testimonies of Rogelio Sabalboro, Dr. Rogelio Javan and PC Sgt. Laureano Luzaran, and the admission of the documentary evidence, the prosecution rested its case. The defense waived its right to present evidence and, instead, moved to file, as it did file, its memorandum.

On September 30, 1982, the trial court rendered judgment convicting Augusto Pizarro. His co-accused Ramon

Mamuri is still at-large and the case against him was provisionally dismissed on July 14, 1981. The third man, Sofronio Villanueva, died before the information was filed in court.

In this appeal, accused Pizarro, in substance, claims that the trial court erred in giving weight and credence to the testimony of Rogelio Sabalboro, in admitting his sworn statement (Exhibit "E") and in convicting him of the crime of murder.

The contention is untenable.

With respect to the sworn statement (Exhibit "E") of appellant, We should take into consideration Section 20, Article IV of the 1973 Constitution, which expressly protects a person under investigation for the commission of an offense from the overwhelming power of the state and from official abuse and lawlessness and guarantees that he shall have the right to remain silent and to counsel and to be informed of such right. Thus, the Constitution mandates that confessions obtained in violation of these constitutional rights are deemed null and void and expressly declared to be inadmissible in evidence.

The statement of appellant Augusto Pizarro (Exhibit "E"), however, contains the questions of Sgt. Laureano Luzaran and the corresponding answers thereto by appellant, as follows:

"PASUBALI : Ikaw AUGUSTO PIZARRO JR. ay tatanungin hinggil sa isang usapin na di umano ikaw ay may kinalaman, ipinababatid ko sa iyo na ikaw ay maykarapatang magsawalangkibo o hindi umimik sa mga itatanong sa iyo, karapatan mo rin ang kumuha ng iyong pili na abogado para makatulong mo sa imbistigasyong ito, ito ba ay na-uunawaan mo?

SAGOT : Opo.

TANONG : Nais mo pa bang kumuha ng iyong pili na abogado para makatulong mo sa imbistigasyong ito?

SAGOT : Hindi ko na po kailangan.

TANONG : Ipinababatid ko rin sa iyo na ano man ang iyong sabihin o maging sagot dito sa imbistigasyong ito ay maaring gamiting batayan laban sa iyo o kahit sa kanino mang tao dito sa lahat ng hukuman sa ating Bansa, ito ba ay na-uunawaan mo?

SAGOT : Opo.

TANONG : Matapos na maipaliwanag ko sa iyo ang iyong karapatan ng ayon sa ating Bagong Saligang Batas ikaw ba ay magbibigay dito ng iyong kusang loob na salaysay na ang iyong sasabihin ay katotohanan at pawang katotohanan lamang lahat?

SAGOT : Opo." (p. 15, Record)

Thereafter, questions by the investigator regarding the incident were propounded to appellant who gave his answers thereto. Considering that prior to the interrogation, appellant was warned that he has a right to remain silent, that any statement he does make may be used as evidence against him and that he has a right to the presence of an attorney, either retained or appointed, the admissibility of Exhibit "E" is beyond question because appellant had waived them voluntarily and knowingly. More so, when he did not take the witness stand to contest or negate the claim that he did not understand the fore-going questions regarding those constitutional rights asked of him.

The Rules of Court provide that an extra-judicial confession suffices to convict if the same is corroborated by evidence of corpus delicti. In the case at bar, the fact of death has been well and sufficiently established. Said fact has been proved by the testimonies of Rogelio Sabalboro and the PC sergeant, as well as the declaration of Dr.

Rogelio Javan who submitted his necropsy report (Exhibit "A") stating his post-mortem findings including the cause of the death of Cornelio Sabalboro.

At any rate, apart from the extra-judicial confession of appellant, the fact of the commission of the crime charged has been sufficiently proved by the testimony of Rogelio Sabalboro:

"Q On June 15, 1980 at more or less 2:00 in the afternoon, where were you?

A I was resting inside our house.

Q Did you ever go out of your house?

A Yes, sir.

Q Why?

A I heard a shot from the house of my brother.

Q What is the name of your brother?

A Cornelio, sir.

Q Family name is Sabalboro?

A Yes, sir.

Q How far is your house from your brother's house?

A More or less 50 meters, sir.

Q When you heard a shot coming from the house of your brother Cornelio, what did you do?

A I went to my brother's house.

Q And what happened while you were on your way to your brother's house?

A When I was already nearing the house of my brother, I saw three persons going towards me.

Q Will you please tell the Court from what place did those three persons come from?

A From my brother's house, sir.

FISCAL:

Q How far were you from your brother Cornelio's house when you saw three persons coming from the house of your brother?

A About ten meters only, sir.

Q Were you able to recognize those three persons?

A I recognized only one, sir.

Q Who was that one whom you recognized?

A Pizarro, sir.

Q If Pizarro one of the three persons you saw coming from the house of your brother is here, will you kindly point to him?

A (Witness pointing to one in white t-shirt who gave his name as Augusto Pizarro).

Q What did you do when you met these three persons?

A They told me not to report the matter to the police authorities.

Q Who in particular told you not to report the matter to the police?

A One of the three whom I did not recognize.

Q What was that matter which you should not report to the police, if you know?

A It was because my brother was killed and according to him if I report the matter to the police authorities I would be killed.

Q After meeting these three persons, one of whom was the accused Pizarro, what did you do?

A I left and they left already, sir.

Q Where did they go?

A Towards the forested area.

Q How about you, where did you go?

A I left for my house and related the information to my mother.

Q What is the name of your mother?

A Teodora Solano, sir.

Q What did your mother do?

A She went to my brother's house, sir.

Q Were you with her when your mother went to your brother's house?

A No more, sir.

Q What happened after your mother went to your brother's house?

A I left the place for Caliraya and went to the Barangay Captain." (tsn., pp. 3-5, July 14, 1981, hearing)

As stated above, the appellant chose not to present any evidence. While it is true that the accused has the right to remain silent and this should not be taken against him, it is equally true, and the fact is, the people's evidence remains un rebutted.

The allegations in the information charging appellant of the crime of murder having been duly established, We have to affirm the judgment of the lower court; and, in the absence of mitigating or aggravating circumstance, the penalty was rightly imposed at reclusion perpetua.

WHEREFORE, the judgment appealed from is hereby AFFIRMED, with the modification that the indemnity to be paid the heirs of Cornelio Sabalboro is increased to P30,000.00. With costs.

**SO ORDERED.**

Melencio-Herrera, Plana, and De La Fuente, JJ., concur.

Teehankee, Acting C.J., in the result.

Gutierrez, Jr., J., Insofar as the application of Section 20, Bill of Rights is concerned, concurrence is pro haec

vice.

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