

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO B. ALCARAZ AND CRISPIN CANTUTAY (DECEASED),
DEFENDANT-APPELLANT.**

G.R. No. 66509. April 25, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Davao City, Branch VIII, 11th Judicial Region finding defendant-appellant Eduardo Alcaraz guilty beyond reasonable doubt of the crime of MURDER and sentencing him as follows:

"WHEREFORE, finding the guilt of the accused Eduardo Alcaraz of the crime of Murder under Art. 248 of the Revised Penal Code proven beyond reasonable doubt, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, to indemnify the heirs of Arturo Aquino in the sum of P12,000.00, with costs de oficio."

The amended information charged the defendant-appellant and one Crispin Cantutay with the crime of murder as follows:

"That on or about January 10, 1978, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused conspiring, confederating together and helping one another, with treachery and evident premeditation, wilfully, unlawfully and feloniously and with intent to kill and armed with a kitchen knife, attacked, assaulted and stabbed one Arturo Aquino, thereby inflicting upon him the following injuries, to wit:

x x x x x x x x

which injuries caused his death.

"That the commission of the foregoing offense was attended by the aggravating circumstances, to wit:

"1. That the offender Crispin Cantutay has been previously punished for an offense to which the law attaches an equal or greater penalty or for two or more crimes to which it attaches a lighter penalty;

"2. That the crime was committed in consideration of a price, reward or promise;

"3. That the wrong done in the commission of the crime was deliberately augmented by causing other wrong not necessary for its commission."

The evidence for the prosecution is summarized in the People's brief as follows:

"On January 10, 1978, Arturo Aquino was found dead inside his car parked at the Insular Village, Davao City. He sustained multiple wounds in different parts of his body (Exhibit "A").

"On January 22, 1978, a special police team was formed to track down the killers of Arturo Aquino (t.s.n., p. 42, Dec. 12, 1981). Sometime on January 24, 1978, on the basis of information previously given by an unidentified telephone caller that a certain Ben Delgado was responsible for Aquino's death, Crispin Cantutay

alias Ben Delgado was located and was requested by the police to shed light on the killing (t.s.n., pp. 149-165, *ibid*). Crispin Cantutay subsequently executed an extra-judicial confession admitting authorship of the death of Arturo Aquino and implicated one Boy Luna as his co-conspirator (Exhibit "D"). In view of the revelation made by Crispin Cantutay, Boy Luna was apprehended, after some effort, in Manila and brought to Davao City (t.s.n., pp. 208, 220-223, *ibid*).

"Boy Luna denied any participation in the killing of Arturo Aquino (t.s.n., p. 40, Apr. 14, 1982). A confrontation was subsequently arranged between Crispin Cantutay and Boy Luna, at which instance, the former retracted his statement implicating the latter but at the same time pointed to one 'Rolly de los Santos' as his companion in slaying Arturo Aquino (t.s.n., pp. 59-62, *ibid*).

"Since the police department had no file on a 'Rolly de los Santos', the files of other sections were looked into and from the files of the A.N.D.U. (Anti-Narcotics and Dangerous Drugs Unit), the police investigators were given a picture of one 'Rolly de los Santos' who had been previously arrested as a marijuana user (t.s.n., p. 29, Dec. 8, 1982, Morning Session). At about noontime of February 6, 1978, the police investigators apprehended 'Rolly de los Santos' whose real name turned out to be Eduardo Alcaraz. In the afternoon of February 6, 1978, Eduardo Alcaraz was brought to the City Fiscal's Office wherein he, upon confrontation with Crispin Cantutay, broke down and admitted his criminal participation in killing Arturo Aquino (t.s.n., pp. 31-32, *ibid*). Thus came about the respective extra-judicial confessions of Crispin Cantutay and Eduardo Alcaraz (Exhibits "E" and "F").

"On February 13, 1978, Crispin Cantutay and Eduardo Alcaraz conducted a re-enactment of the crime. A criminal case for murder was subsequently filed against the two. However, on March 6, 1979, Crispin Cantutay was shot to death. Hence, trial proceeded only against Eduardo Alcaraz which eventually led to his conviction."

On February 13, 1981, Dr. Juan M. Abear, MD., FPAFP., DFM., examined the body of the deceased. The medico-legal report submitted by Dr. Abear shows the following:

"= Rigor mortis all over the body except the toes.

"=

Wound incised, 7.0 c.m. long, edge clean cut, gaping medial extremities rounded and lateral Extremities sharp oriented horizontal, located in the anterior aspect of the left neck, penetrating the underlying tissue, muscle and severing the common carotid artery and veins of the left neck; 5.0 c.m. long oriented horizontally, edges clean cut, gaping, both extremities sharp located in the anterior aspect of the left wrist, penetrating the underlying tissue and blood vessels, 5.0 c.m. long oriented horizontally edge clean cut, both extremities sharp, gaping located in the lateral aspect of the left wrist penetrating the underlying tissue, muscle; 4.0 c.m. long, edges clean cut, both extremities sharp, gaping oriented horizontally located in the posterior aspect of the left wrist, penetrating the underlying tissues, 5.5 cm. long, edges clean cut, both extremities sharp, gaping located in the anterior aspect of the right wrist; 8.0 c.m. long edges clean cut, both extremities sharp, slightly gaping, pale in color, oriented horizontally located in the left breast at the level of 6th ICS directed backwards, downwards and medially penetrating the underlying tissue, muscle and abdominal cavity and penetrating the left lobe of the liver; 7.0 c.m. long oriented horizontally, edges clean cut and pale in color located in the umbilical region 4 c.m. above the navel, penetrating the underlying tissues.

"=

Wound incised 4.0 c.m., edges clean cut, both extremities sharp, very pale in color, bloodless, located in the

dorsum of left foot, medial aspect at the angle of the distal leg and foot.

"CAUSE OF DEATH: HEMORRHAGES SECONDARY TO MULTIPLE WOUNDS."

The defendant-appellant on the other hand claims that his extra-judicial confession is inadmissible as evidence against him as it was obtained through force and intimidation and was prepared without the assistance of counsel. The defense evidence is summarized in the defendant-appellant's memorandum as follows:

"On January 10, 1978, police authorities found the dead body of Arturo Aquino with multiple wounds. A blood stained knife was found on the floor of his car. The family of the deceased offered a reward for the informant as to the killer. On January 22, 1978, a special police team was created to investigate the case. On January 24, 1978, the special police team apprehended Crispin Cantutay. Before the end of January, 1978, a certain Boy Luna was apprehended at Manila and brought to Davao City for investigation. On February 6, 1978 at about 11:00 in the morning, while trying to get a taxi for Major Besario, the herein appellant Eduardo Alcaraz was forcibly apprehended by members of the special police team at the gate of the P.C. Compound of Davao City. At the time of the arrest, the members of the special police team were armed and they did not have a warrant of arrest. At around 2:00 in the afternoon, Eduardo Alcaraz was brought to the Fiscal's Office where then Special Counsel Joel Hipe was conducting a preliminary investigation of Crispin Cantutay. Eduardo Alcaraz was not investigated. Special Counsel Joel Hipe instructed the special police team to bring the appellant and Crispin Cantutay to the Office of the Police Investigation Division where their alleged statements were taken (Exhibits "E" & "F"). On the basis of these extra-judicial statements hurriedly prepared on February 6, 1978 without the presence and benefit of counsel Eduardo Alcaraz and Crispin Cantutay were charged with the murder of Arturo Aquino.

"On February 13, 1978, while Eduardo Alcaraz was being detained by the special police team, he was made to participate in the re-enactment of the alleged crime with Crispin Cantutay and members of the special police team, the jail warden and police escorts from the city jail, as well as the brothers of the deceased. After the appellant and his co-accused were instructed as to what do do, they were brought to Insular Village and pictures were taken during the incident. From Insular Village, the appellant was brought back to the city jail where he was being detained without any warrant of arrest. The warrant of arrest for Eduardo Alcaraz was brought to the city jail only on February 18, 1978.

"On February 21, 1978, the appellant Eduardo Alcaraz was made to sign another statement without counsel. The arraignment of Eduardo Alcaraz and Crispin Cantutay was initially scheduled on February 22, 1978, and Atty. Roberto Sencio was the first counsel de oficio of both accused in 1978. Prior to their arraignment, he filed a motion for medical examination of both accused because when he saw them, they had several injuries on several parts of their bodies. At the arraignment, Judge Martinez ordered the City Health Officer to examine the accused Cantutay while in Court. It was found that Cantutay had wounds on his lips and his eyes were swollen with several bruises and contusions on his back and buttocks. Upon order of the Court, the herein appellant Eduardo Alcaraz was also examined by the doctor and at the time of the examination, his gums were swollen, he had a wound on the right eye and contusions on several parts of his body. On the basis of the medical certificates issued by the City Health Officer, Judge Martinez issued an order specifically stating that the confessions were obtained by force and were therefore 'worthless'. Crispin Cantutay was arraigned on February 27, 1978 and Eduardo Alcaraz was arraigned on March 3, 1978. Both accused pleaded not guilty.

"On January 19, 1979, the Puericulture Building housing Branches III and IV of the Court of First Instance was razed by fire, destroying the record of this case. On February 12, 1980, a petition for Reconstitution of destroyed judicial records was granted. Although the initial hearing of this instant case was set on January 14, 1981, actual trial started only on May 13, 1981. Trial was with respect to the herein appellant Eduardo Alcaraz only as Crispin died on March 6, 1979.

"During the trial of this case, Pat. Alberto Eramis and Pat. Pedrito Collado who were members of the special police team testified that they were told by Crispin Cantutay that his companion in killing Arturo Aquino was a certain Boy Luna. Patm. Eramis testified that he apprehended Boy Luna, that Boy Luna was his friend, and that Boy Luna was subsequently released. Later, Crispin Cantutay allegedly told him that his companion in killing Arturo Aquino was Rolly de los Santos who was detained at the CANU. According to the testimony of both Patm. Eramis and Patm. Collado, they did not go to the CANU office, but they instead went to the office of the Anti-Narcotics Division Unit (ANDU) which keeps separate and different records from that of CANU. According to the prosecution witnesses Patm. Eramis and Patm. Collado, the ANDU did not have a record of Rolly de los Santos. Both witnesses testified that they were looking for Rolly de los Santos on February 6, 1978 when they saw Eduardo Alcaraz and apprehended him at noon. To justify why they apprehended Eduardo Alcaraz, they claimed that an unidentified person at the ANDU gave them a picture of Eduardo Alcaraz and said that he is Rolly de los Santos (Tsn. 7-8-81, pp. 48-49; Tsn. 1-27-83, p. 81). During the cross-examination, Patm. Collado testified that they went to the ANDU instead of the CANU because the people at the ANDU were their 'companions'. The prosecution did not present Crispin Cantutay, nor the person at the ANDU who allegedly gave the police officers the picture of Eduardo Alcaraz and who told them that the appellant is Rolly de los Santos.

"During the trial, the herein appellant Eduardo Alcaraz, repudiated the sworn statement dated February 6, 1978 (Exhibit "F"). He testified that he was forcibly taken by the members of the special police team without any warrant of arrest, that he was mauled and maltreated, that he was forced to admit that he was Rolly de los Santos and forced to sign the sworn statement, and that he did not have counsel at that time because he was told that he would be killed if he told anyone what they did to him. The defense proved during the trial that a certain Rolly de los Santos was apprehended by a group force of CANU and ANDU and detained by the CANU at the PC Barracks. Captain Lazarraga who also testified for the defense stated that Rolly de los Santos and Eduardo Alcaraz are two different persons."

The defendant-appellant raises the following assignment of errors in his brief.

I

IN FINDING THE EXTRA-JUDICIAL STATEMENT OF ACCUSED EDUARDO ALCARAZ (EXHIBIT "F") AS ADMISSIBLE EVIDENCE AND AS A VOLUNTARY CONFESSION OF GUILT;

II

IN NOT BELIEVING THE TESTIMONY OF ACCUSED-APPELLANT AND CONCLUDING WITHOUT EVIDENCE THAT THE ACCUSED-APPELLANT KNEW CRISPIN CANTUTAY, ARTURO AQUINO, AND ROLLY DE LOS SANTOS, AND THAT 'CRISPIN CANTUTAY KNEW HIM TO BE EDUARDO ALCARAZ;

III

IN BASING ITS DECISION OF CONVICTION OF APPELLANT ON HEARSAY TESTIMONY OF THE WITNESSES FOR THE PROSECUTION;

IV

IN CONVICTING APPELLANT WHO AT THE TIME OF THE ALLEGED OFFENSE WAS UNDER DETENTION AND CUSTODY OF THE CONSTABULARY ANTI-NARCOTIXS UNIT (CANU).

The defendant-appellant assails his extra-judicial confession which he says is violative of Section 20, Article IV of the 1973 Philippine Constitution because it was obtained through force and intimidation. The People's brief argues that the extra-judicial confession is voluntary because it is filled with details only the accused could have known. The defendant-appellant testified:

"Q When they arrested you, did they bring you any warrant of arrest?

"A No, Ma'am.

"Q How did they arrest you, can you narrate?

"A When I was on the street, the two policemen, passed by, Patm. Salvador and Collado. One of the policemen alighted from the buggy and immediately handcuffed me and brought me to the jeep."

(TSN., March 18, 1983, p. 150).

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"Q What happened there?

"A When I was already inside the buggy, they brought me to a house in Quezon Boulevard and there was nobody there.

"Q

What did you do there?

"A When we reached there, they called Lt. Reynes, Pat. Eramis, Pavo and Cano.

"Q What did they do there?

"A When they arrived there, they started mauling me, and applied 'circuit electric' because they wanted me to admit that I was Rolly de los Santos, in the presence of the family of Aquino.

"Q Why, was the family of Aquino present there?

"A Not yet.

"Q

How long did you stay there?

"A Around one hour and they were maul-ing me.

"Q What happened afterwards?

"A After that, they brought me to the guest house of Aquino, in Room 1-C.

"Q Now, what happened when you were brought to Room 1-C of the Aquino Coliseum?

"A When we arrived at the guest house, the two policemen alighted. The two policemen went to a room where Crispin Cantutay was detained, and they told him that he should point to me that I am Rolly de los Santos. Then the two Aquino brothers, Rodolfo and Abdul let Crispin Cantutay go out from the room and at the same time when I was going out, and we were placed in one room with Cantutay. There, Crispin Cantutay pointed to me as Rolly de los Santos."

(TSN., March 18, 1983, pp. 151-152)

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"Q When Crispin Cantutay pointed to you as Rolly de los Santos, was that all that transpired at the guest house? You stayed there for how long?

"A Around 45 minutes.

"Q What happened during that 45 minutes?

"A They mauled me. All of them. They pushed me towards the table and that was the reason why my teeth was broken and I have a wound in my right eye.

"Q When you were brought to the Fiscal's office, were you bleeding?

"A While on our way to the Fiscal's office, we passed by a drug store and they brought a band aid and put it on my eye.

"Q Whose office was that you went to in the Fiscal's office?

"A Fiscal Hipe.

"Q

What happened when you reached the Fiscal's office?

"A When we arrived at the Fiscal's office, Fiscal Hipe immediately said 'is this Rolly de los Santos?' and the one who answered was a policeman."

(TSN., March 18, 1983, pp. 152-153)

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"Q What happened in the office of Fiscal Hipe after they asked you and the policemen answered?

"A The answer of the policeman is that this is Rolly de los Santos and Crispin Cantutay pinpointed to me that I am Rolly de los Santos. That is why we were sent out of the Fiscal's office because they will get the statement. While we were outside of the Fiscal's office, we were brought back to the guest house. My companions were the policemen."

(TSN., March 18, 1983, p. 153)

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"Q

You said you were brought back to the Aquino Guest House. What happened when you were at the Davao guest house of Aquino?

"A When I was brought back to the guest house, I was mauled again because before I did not want to sign the statement. So from that time they continuously mauled me.

"In the afternoon on February 6, about 5:00 P.M., I cannot anymore take the mauling. That was the time that I told the policeman that I would sign the statement.

"Q Did you see who prepared the sworn statement?

"A Yes, Ma'am.

"Q Who prepared it?

"A Pat. Eramis.

"Q

Did you read the sworn statement that you signed?

"A No more because they wanted me to sign it."

(TSN., March 18, 1983, p. 154)

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"Q The next day, what happened?

"A The following day, early in the morning, I was brought by the policemen to the office of Fiscal Hipe.

"Q What happened there?

"A When we arrived there, he immediately signed the sworn statement."

(TSN., March 18, 1983, pp. 156-157)

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"Q Can you just state what Judge Martinez did on that day of your arraignment?

"A A doctor was called and there was a medical certificate issued. xxx.

(TSN., March 18, 1983, p. 161)

"Q Do you know if you were given any medical certificate?

"A Yes, Ma'am.

"Q Where is the medical certificate now?

"A They got it."

(TSN., March 18, 1983, p. 162)

Atty. Sencio, the first counsel de officio of the defendant-appellant corroborated the defendant-appellant's testimony when he testified that:

"Q Now, on the day of the arraignment, can you explain to the court what transpired, if any?

"A Prior to arraignment, I filed a motion for medical examination of both accused because when I saw them, they had several injuries in several parts of their bodies.

"Q What happened to that motion?

"A The motion was granted by the then Honorable Judge Antonio Martinez and on the day of the hearing after the arraignment, at about 9:00 in the morning, Judge Martinez ordered the City Health Officer to examine the accused while in Court.

(TSN., March 18, 1983, p. 196)

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"Q

Now, you said you filed a motion to have the medical examination of the accused. Why did you file that motion, what was your reason?

"A My purpose was to prove to the Court that the confession extracted by the police authorities was obtained

by force and violence, that is why the Judge issued an order concluding that the confession obtained by the police was made by force and violence.

"Q Did the trial court issued an order to that effect?

"A There was a separate order to that effect, to the effect that the confession was obtained by force.

"Q Would you tell us where is that order now?

"A It was attached to the records. My file copy was destroyed at the time of the transfer of my office from Anda Street to San Pedro Street. I was then counsel de oficio for Crispin Cantutay and Eduardo Alcaraz was represented by Atty. Mallari. I also destroyed my records as there was no need for them."

(TSN., March 18, 1983, pp. 197-198)

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"Q Would you know also if Eduardo Alcaraz was examined?

"A Yes.

"Q Do your know if there was a medical certificate issued?

"A Two medical certificates were issued which I submitted as part of the records.

"Q Would you remember the medical findings in so far as Eduardo Alcaraz is concerned?

"A The doctor testified. At the time of the examination, his gums were swollen, he had a wound on the right eye, and he had contusions on several parts of his body because he was stripped by the doctor when he was examined.

"Q Were you present at the time of the examination?

"A Yes, including Judge Martinez and Deputy Clerk of Court Torollo."

(TSN., March 18, 1983, p. 198)

The following testimony remained unimpeached during the cross-examination:

"Q Since you do not have the order where the Judge resolved that some confessions of the accused were obtained thru threats or force and intimidation, did you file a motion?

"A I did not file a motion because it was only spot confession and Judge Martinez saw that wounds and injuries by the accused."

(TSN., March 18, 1983, p. 201)

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"Q

According to you, as a consequence of the medical certification issued by the physician of the City Health Office which brought out the injuries suffered by Cantutay, the Honorable Judge Martinez issued an order and in that order it specifically stated that the confession obtained by the police was made by force. Tell us under what circumstances did the Judge rule that confession when there was no showing that it was brought out?

"A The judge himself asked the medical officer about the probable time when the injuries were inflicted and the examiner stated the probable date of the injuries, and the judge concluded that the confessions were obtained on the time that the accused were investigated.

"Q Now, tell us when this confession was made and under what circumstances were they brought to the Court's attention?

"A It was the judge who ordered the examination and it was conducted by a medical officer of the City Health Office."

(TSN., March 18, 1983, p. 202)

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The evidence for the prosecution consisting of mere denials by the police officers, is insufficient to overturn the

foregoing straightforward testimony of the defendant-appellant and Atty. Sencio. On the day of the arraignment, Atty. Sencio, counsel de oficio of the defendant-appellant, filed a motion for the medical examination of both accused. Judge Martinez ordered the City Health Officer to examine the two accused. The doctor found out that the defendant-appellant's gums were swollen; he had a wound on his right eye and contusions on several parts of his body. Judge Martinez subsequently issued an order to the effect that the confessions of the two accused were obtained by force. The foregoing clearly show that the extrajudicial confession of the defendant-appellant should not have been admitted as evidence during the trial after the burning and the reconstitution of records as it was obtained in violation of Section 20, Article 4 of the 1973 Constitution.

In *People v. Sabilano* (G.R. Nos. 32866-67, September 21, 1984), we held that:

"It is proverbial in law that a confession made freely and voluntarily constitutes one of the most effectual proofs against the person making it. But stripped of its free and voluntary character, which otherwise gives it its value, a confession is wholly inadmissible. This principle stems from the constitutional right of the accused against self-incrimination; and this precludes the use of a confession obtained through force, threat or other means which vitiates the free will. Upon this premise the confession, Exhibit 'P' must be excluded from consideration by the court."

The other evidence upon which the judgment of conviction was based are the pictures taken during the re-enactment of the crime. These pictures should have been likewise excluded by the trial court because they were based on the extra-judicial confessions of the defendant-appellant and Crispin Cantutay.

The defendant-appellant was able to sufficiently explain why he demonstrated factual physical details of which he alone could have had peculiar knowledge when he participated in the re-enactment of the crime. The defendant-appellant testified that:

"Q

When you were at Insular how did you know how to re-enact the offense?

"A

From the city jail, we went direct to the Motel. When we arrived there, the statements were taken, my statement and that of Ben Delgado. These were read to us and we were instructed by the policemen that this is the act that we will make so that it will coincide with the statements that we have signed. That picture will be used as evidence to put us in prison.

"Q

Now, specifically, who instructed you what to do?

"A

Lt. Reynes.

In other words, he was given a script to follow for the re-enactment of the crime.

Another evidence used by the trial court for the judgment of conviction is the letter dated February 12, 1978, addressed to a certain Sally and signed by a certain "Edoy". The letter states in part:

"Davao City

Rehabili-tation Center

MAA, Davao City February 15, '78

Cell No. 7

"MAHAL KONG SALLY,

xxx xxx xxx

"Sal, ipinaglim ko sa inyong lahat pati na sa mga relatives ko na kasama ako sa pagpatay noong Turing Aquino x x x.

""Ang Aba Ninyong Kaibigan,

EDUARDO ALCARAZ EDOY"

There is no proof that the defendant-appellant actually wrote the said letter. The defendant-appellant testified that he does not know anyone by the name of "Edong" or "Edoy" and neither is he known by that name —

"ATTY. QUINTILLAN:

"Q Do you know anybody by the name of Rolando de los Santos?

"A No Ma'am.

"Q Do you use any alias?

"A Eddie Alcaraz.

"Q

Do you know anybody by the name of 'Edoy' and or any other names?

"A No, Ma'am.

"Q Do you use that alias 'Edong'?

"A No, Ma'am.

(TSN., March 18, 1983, p. 165)

The defendant-appellant testified categorically during the cross-examination that he does not know Sally Acto personally:

ATTY. CAÑETE

"Q In fact you do not know Sally Acto?

"A I heard her name because she is a prostitute.

"Q You only heard her name?

"A Yes, sir.

(TSN., March 18, 1983, p. 172)

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"Q

You do not know where she lives?

"A No, sir.

"Q You have not met her previously?

"A No, sir.

"Q In fact, when you saw Miss Sally Acto testify here in court, you were not certain if she is Sally Acto whom you heard about in the PC Barracks?

"A Yes, sir."

(TSN., March 18, 1983, p. 173)

And lastly, the prosecution was not able to establish the fact that Eduardo Alcaraz is the same person as Rolando

de los Santos. The supposed co-conspirator, Crispin Cantutay at first, implicated a certain Boy Luna as his companion during the killing. At a confrontation with Luna, Cantutay reversed himself and stated that his co-author of the crime was Rolly de los Santos. Appellant Alcaraz was apprehended as Rolly de los Santos. And yet, Captain Gregorio Lazarraga, the Chief of the Anti-Narcotics and Dangerous Unit (ANDU), whose files furnished the lead about Rolly de los Santos categorically testified that Rolando de los Santos and Eduardo Alcaraz are two separate and distinct persons. Captain Lazarraga testified that:

"Q Do you know the accused in this case, Eduardo Alcaraz?

"A Yes, Your Honor.

"Q How did you come to know him?

"A He was brought to our office from Monkayo. Eduardo Alcaraz was brought to our office for investigation because he was caught by elements of the Monkayo Police Force in possession of marijuana leaves.

"Q Do you know a person by the name of Rolly de los Santos?

"A Yes, I know him, he was brought to my office, apprehended by my men in Compostela.

"Q

Would you know if this Rolly de los Santos is also Eduardo Alcaraz?

"A They are two different persons.

"Q Now, how about Eduardo Alcaraz, was he arrested by your own men?

"A He was arrested and recorded in our blotter and we indorsed him to the task force known as the CANU as at that time, we do not have jurisdiction. At that time, our jurisdiction was confined in Davao City only.

"Q In other words, Eduardo Alcaraz was under the custody of the CANU?

"A Yes, Ma'am.

"Q How about Rolando de los Santos?

"A

If I remember right, Rolando de los Santos was apprehended ahead of Eduardo Alcaraz.

"Q Do you know where Rolando de los Santos is now?

"A I heard that he was detained with the CANU or Task Force Bagong Buhay, and escaped from the custody of the CANU.

"Q How about Eduardo Alcaraz, would you know until when was he detained by the CANU?

"A Until he was apprehended during that incident just after the killing of Arturo Aquino."

(TSN., March 18, 1983, pp. 188-189)

The killing of Arturo Aquino appears to have been motivated by his alleged failure to pay for a batch of prohibited drugs. In the murky world of drugs, violence is a constant companion. The principal accused was himself the victim of a violent death. The Court is concerned that his companion, if any, should escape unpunished. However, the Constitution and the law are clear that in case of reasonable doubt, the accused must be acquitted. Our jurisprudence is built around the concept that it is preferable for the guilty to remain unpunished than for an innocent person to suffer a long prison term unjustly.

The records do not furnish proof beyond reasonable doubt that the defendant-appellant was really responsible for the murder of Arturo Aquino. With the exclusion of his extra-judicial confession and the pictures taken during the re-enactment of the crime, the records are bereft of any evidence against the defendant-appellant which could support a judgment of conviction.

WHEREFORE, the judgment appealed from is hereby REVERSED and SET ASIDE, and the defendant-appellant is ACQUITTED of the crime charged on grounds of reasonable doubt.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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