

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO DOLLANTES, HAMLET DOLLANTES, ALFREDO DOLLANTES, LAURO DOLLANTES, MONICO DOLLANTES, SIDRITO LOKESIO, MERLANDO DOLLANTES, ...

G.R. No. 70639. June 30, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a decision of the Regional Trial Court of Dumaguete City, 7th Judicial Region, Branch XL, in Criminal Case No. 5832, convicting the nine (9) accused, Pedro Dollantes, Hamlet Dollantes, Lauro Dollantes, Monico Dollantes, Sidrito Lokesio, Merlando Dollantes, Hugo Grengia, Danny Esteban and Leonilo Villaester, all equally guilty of the complex crime of "Assault upon a Person in Authority Resulting in Murder" and sentencing the above-mentioned accused to suffer the penalty of reclusion perpetua and to indemnify the heirs of the deceased, jointly and severally, the sum of P30,000.00 to pay attorney's fees in the amount of P3,000.00 and to pay the costs.

All of the accused were charged as follows:

"That on or about the 21st day of April 1983 at nighttime, in the Municipality of Tayasan, Province of Negros Oriental, Philippines, and within the jurisdiction of this Honor-able Court, the above-named accused, conspiring and confederating together and helping one another with evident premeditation and treachery, and with intent to kill did then and there, willfully, unlawfully and feloniously attack, assault and stab one Marcos Gabutero, Barangay Captain of Maglihe, Tayasan, Negros Oriental, an agent of a person in authority and which fact accused had full knowledge, while the latter was in the lawful performance of his official duty or function as Barangay Captain or on the occasion of such function, with a bolo and hunting knives with which the accused were then armed and provided, thereby inflicting the following wounds on the victim, viz:

1. Stab wound measuring three and a half (3½) cm. in length and half (½) cm. in width, ten (10) cm. depthness located at the left anterior aspect of the trunk at the level of the 3rd intercostal space, 5 cm. away from the anterior mid-line. The wound was oriented horizontally and directed vertically and slightly to the back. Ventricle and lung tissue penetrated.
2. Stab wound measuring four (4) cm. in length, 1 cm. in width, eleven and a half (11½) cm. depthness, located at the right anterior aspect of the trunk, at the level of the 2nd intercostal space about five (5) cm. away from the anterior and mid-line, the wound was oriented horizontally and directed down-ward and slightly to the back.
3. Incised wound five (5) cm. in length, 1 cm. in width located at the left anterior aspect of the trunk about 26 cm. below the left clavicle and four (4) cm. away from the anterior mid-line. The wound was oriented obliquely.
4. Incised wound measuring two (2) cm. in length and one (1) cm. in width, located at the right anterior aspect of the trunk about twenty-one (21) cm. below the right clavicle and eight (8) cm. away from the anterior line. The

wound was oriented obliquely.

5. Incised wound measuring one and a half (1½) cm. in length, half (½) cm. in width located at the anterior aspect of the upper extremity about nine (9) cm. above the wrist joint one and a half (1½) cm. away from the anterior mid-line and med-ially. The wound was oriented vertically.

6. Incised wound measuring four (4) cm. in length, 1 cm. in width located at the lateral aspect of the right upper extreme about five (5) cm. above the elbow joint and five (5) cm. away from the posterior mid-line laterally. The wound was oriented horizontally.

7. Through and through stab wound located at the left upper extre-mity the wound of entrance measuring about three and a half (3½) cm. in length and one (1) cm. in width located at the posterior aspect of the fore-arm above five (5) cm. below the elbow joint, three (3) cm. away from the anterior mid-line medially. The wound was oriented vertically.

8. Incised wound measuring 3 cm. in length half (½) cm. in width located at the lateral aspect of the left upper extremity about five (5) cm. below the elbow joint and (5) cm. away from the posterior mid-line. The wound was oriented horizontally.

9. Stab wound measuring one and one-half (1½) cm. in width and four (4) cm. depthness located at the left anterior aspect of the trunk, about seven and a half (7½) cm. above the iliac crest and twelve (12) cm. away from the anterior mid-line. The wound was oriented obliquely and directed downward, slightly to the right and poster-iority, perforating part of the intestine.

10. Stab wound measuring three (3) cm. in length, one (1) cm. in width and seven and a half (7½) cm. in depthness, located at the left posterior of the trunk about three (3) cm. above the lower angle of the scapula, and seven (7) cm. away from the posterior mid-line. The wound was oriented obliquely and directed downward and slightly to the left.

11. Stab wound measuring three (3) cm. in length, one (1) cm. in width and twelve (12) cm. in depthness, located at the left posterior aspect of the trunk about thirteen (13) cm. below the lower angle of the scapula and six (6) cm. away from the posterior mid-line. The wound was oriented obliquely and directed anteriority to the left.

12. Hemothorax on the left pleural cavity, which wounds caused the latter's untimely death.

Contrary to Art. 248, 148 and 48 of the Revised Penal Code."

(Information, Original Record, pp. 3-4)

The findings of facts of the trial court are as follows:

"That deceased Marcos Gabutero at the time of his death was the Barangay Captain of Barangay Maglihe, Tayasan, Negros Oriental; that due to the ap-proaching fiesta of barangay Maglihe, a dance was held in said barangay in the evening of April 21, 1983; that while the Barangay Captain was deliver-ing a speech to start the dance, the accused Pedro Dollantes went to the middle of the dancing floor, making a dance movement known in the visayan as 'nagkorantsa', brandishing his knife and challenging everyone as to who was brave among the people present; the Barangay Captain approached Pedro Dollantes and admonished him to keep quiet and not to disturb the dance. However, the accused, instead of heeding to the advice of the Barangay Captain, stabbed the latter on the left arm; that accused Hugo Grengia held the left hand of ac-cused Pedro Dollantes and Dionilo Garol was able to get from the hand of Pedro Dollantes the hunting knife. Immediately thereafter, accused Hamlet Dollantes, who rushed towards the Barangay Captain, stabbed the Barangay Captain at the back and the other co-accused also took turns in stabbing the Barangay Captain; the Barangay Captain at that time was not armed. Except for the accused Hugo Grengia, Danny Esteban and Leonilo

Villaester who were merely holding stones, the other co-accused participated in the stabbing incident. When the Barangay Captain fell to the ground and died, the accused in this case took turns in kicking the dead body of the Barangay Captain and were dancing around said dead body; that the Barangay Captain suffered eleven (11) wounds in the different parts of his body, two of which happened to be at the back of his dead body. According to the attending physician, Dr. Rogelio Kho who examined the body of the deceased, the victim died of 'Severe hemorrhage and cardiac tamponade due to stab wounds'." (Decision, Crim. Case No. 5832, Rollo, p. 75).

The evidence for the prosecution consisted principally of the testimonies of Dionilo Garol, Bonifacio Cero, Marciana Gabutero, the wife of the deceased, Pat. Ricardo Barrera, Dr. Rogelio Kho who conducted the post mortem examination of the deceased, Ponsimillo Balasabas, the Municipal Treasurer of Tayasan, Negros Oriental and Pat. Jose Amis of the Integrated National Police.

On the other hand, the defense presented the following witnesses: Accused: Hugo Grengia, Leonilo Villaester, Danny Esteban, Alfredo Dollantes, Hamlet Dollantes, and other witnesses: Machim Dollantes and Tacio Fausto.

After a careful evaluation of the evidence, the trial court was convinced that all the accused in this case conspired in the commission of the crime.

Thus on February 20, 1985, the trial court rendered its decision finding all the accused guilty of the complex crime of assault upon a person in authority resulting in murder. The dispositive portion of the decision reads as follows:

"WHEREFORE, the prosecution having proven the guilt of all the accused beyond reasonable doubt, this Court hereby finds the accused Pedro Dollantes, Hamlet Dollantes, Alfredo Dollantes, Lauro Dollantes, Monico Dollantes, Sidrito Lokesia, Merlando Dollantes, Hugo Grengia, Danny Esteban and Leonilo Villaester, guilty of the complex crime of assault upon a person in authority resulting in murder, and hereby sentences the above-mentioned accused to suffer the penalty of reclusion perpetua and to indemnify the heirs of Marcos Gabutero, jointly and severally, the sum of Thirty Thousand (P30,000.00) PESOS, to pay attorney's fees in the amount of Three Thousand (P3,000.00) Pesos, and to pay the costs of the proceedings.

SO ORDERED." (RTC Decision, Rollo, p. 79)

From the aforementioned decision, all the accused appealed. Accused Hugo Grengia submitted a separate brief.

The appellants raised the following assignment of errors:

"FIRST ERROR

"THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDIT TO THE BIASED, INCREDIBLE AND CONTRADICTORY STATEMENTS OF THE PROSECUTION WITNESSES DIONILO GAROL, BONIFACIO CERO AND MARCIANA GABUTERO AND IN NOT CONSIDERING AT LEAST THE UNCONTRADICTED TESTIMONY OF INDEPENDENT WITNESSES DOLLANTES AND TACIO FAUSTO.

SECOND AND THIRD ERRORS

THE TRIAL COURT ERRED IN NOT GIVING WEIGHT TO THE EXPERT PROSECUTION WITNESS DR. ROGELIO R. KHO WHICH IN EFFECT CONTRADICTS THE THEORY OF THE PROSECUTION AND THAT THE TRIAL COURT ERRED IN DECIDING THAT CONSPIRACY EXISTS.

FOURTH ERROR

THE TRIAL COURT ERRED FROM NOT GIVING WEIGHT TO THE TESTIMONY OF ACCUSED

HUGO GRENGIA, LEONILLO VILLAESTER alias "Laon", DANILO ESTEBAN, HAMLET DOLLANTES, ALFREDO DOLLANTES AND THE TESTIMONY OF INDEPENDENT WITNESSES TACIO FAUSTO AND MCLEAN DOLLANTES.

FIFTH ERROR

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY OF THE COMPLEX CRIME OF ASSAULT UPON A PERSON IN AUTHORITY RESULT-ING TO MURDER AND SENTENCING THEM TO SUFFER THE PENALTY OF RECLUSION PERPETUA AND TO INDEMNIFY THE HEIRS OF MARCOS GABUTERO, JOINTLY AND SEVERALLY, THE SUM OF THIRTY THOUSAND (P30,000.00) PESOS, and TO PAY THE COSTS OF THE PROCEEDINGS." (Brief for Accused-Appellant, Rollo, p. 62)

In his separate brief, accused Hugo Grengia assigns the following errors:

- "1. The lower court erred in not giving weight and credence to the admission of accused-appellant Hamlet Dollantes that he was the lone perpetrator of the alleged stabbing of victim Marcos Gabutero.
2. The lower court erred in not considering the testimonies of prosecution witnesses, namely: Patrolman Ricardo Barrera, Dr. Rogelio Kho which in effect buttressed the theory of the defense.
3. The lower court erred in not considering the entry in the police logbook of the Tayasan Integrated National Police, dated April 21, 1983, as testified to by Patrolman Jose Amis.
4. The lower court erred in holding that conspiracy exist in perpetration of the felony.
5. The lower court erred in holding that the case of People vs. Agag (L-64951, June 29, 1984) is applicable to the case at bar to justify the conviction of the accused-appellants.
6. The lower court erred in not giving weight and credence to the testimony of the defense witnesses.
7. Finally, the trial court erred in holding that the accused-appellant herein is guilty of the crime charged." (Brief for accused-appellant Hugo Grengia, pp. 1-2)

The appeal is without merit.

The issue hinges on the credibility of witnesses.

The accused were positively identified by three (3) prosecution eyewitnesses. They were: Dionilo Garol, Bonifacio Cero and Marciana Gabutero, the wife of the victim. Except for the latter, the two other witnesses Garol and Cero are not related to the victim or the accused. The testimonies of these three (3) witnesses were subjected to a lengthy cross-examination and were found credible and free from material contradictions by the trial court (Rollo, p. 75).

Dionilo Garol who was six (6) meters away, saw clearly what happened. He testified that when the Barangay Captain started to deliver his speech, the accused Pedro Dollantes brandishing a knife shouted "Who is brave here?" (TSN, page 6, Oct. 17, 1983). The victim then approached to admonish him but the latter stabbed the victim on the arm. Garol immediately approached the accused Pedro Dollantes and tried to wrest the knife away from the hand of the accused. The accused Hugo Grengia also tried to grab the knife but it was Garol who succeeded. The accused Grengia then told him "Do not try to intervene because you might be included in the plan." (TSN, page 8, Oct. 17, 1983). Then Grengia made some signs by nodding his head and the accused Hamlet Dollantes and Alfredo Dollantes rushed to and attacked the victim followed by the other co-accused in this case who also rushed at and stabbed the victim. He specified that accused Alfredo Dollantes, Lauro Dollantes, Monico Dollantes and Sidrito Lokesio were carrying knives while the accused Merlando Dollantes was carrying a bolo; and that they stabbed the victim one after another. He said that the accused Danny Esteban, Hugo Grengia and

Leonilo Villaester were all carrying stones which they threw at the store of the victim's wife (TSN pp. 7-10; Oct. 17, 1983).

This testimony was fully corroborated by another pro-secution eyewitness Bonifacio Cero who was about three (3) meters away and whose narration tallied on all material points with that of Dionilo Garol as to what transpired that night. He stated further that when he saw the Barangay Captain being stabbed he tried to approach the group but he was held by Danny Esteban who said "do not try to interfere, you are not a party to this. We have already gotten what we have been aiming for." (TSN, page 12, Oct. 18, 1983). Thereafter, he ran away but Alfredo Dollantes, Pedro Dollantes and Danny Esteban stoned him because they intended to kill him also. He also testified that when he returned to the crime scene, he saw Hugo Grengia, Danny Esteban and companions simultaneously kicking the dead body and shouting "who is brave among here."

Marciana Gabutero, the wife of the victim fully corroborated the testimonies of Garol and Cero. She also added that Hugo Grengia wanted to be a Barangay Captain and she happened to know that as a fact, because he told the crowd not to listen to the victim's speech as the latter will not be staying long as Barangay Captain. She also testified that the accused Leonilo Villaester splashed one glass of tuba on the face of the deceased and that the victim had had a misunderstanding with the Dollantes on a theft case involving Hamlet Dollantes (Rollo, pp. 68-69).

It will be noted that the above witnesses were categorical and straightforward when they stated that they saw appellants stab the victim. They even specified the type of weapon used by each of said appellants.

There is no possibility that they could have been mistaken in their identification for apart from being near the crime scene which was well illuminated with two Petromax lamps (TSN, page 6, Oct. 19, 1983), these witnesses are familiar with the appellants since they are all residents of the same locality. Furthermore, there is no showing that the witnesses had any motive to testify falsely against the appellants.

In fact, under similar circumstances, the Court has held that where the scene of the stabbing was clearly lighted and no motive was shown why prosecution witnesses would incriminate the appellants, identification would be given full faith and credit (*People v. Escoltero*, 139 SCRA 218).

The theory of the defense in this case is that it was only the accused Hamlet Dollantes who stabbed the victim while the other accused did not participate in the stabbing incident (Rollo, pp. 75-76).

In an attempt to disprove the findings of the trial court, appellants pointed out that there are certain inconsistencies that render the testimonies of prosecution witnesses, incredible.

For one thing they claim that Dionilo Garol could not have seen Hamlet Dollantes stab the victim because as Garol himself stated, when said accused rushed towards the victim, he ran away. The evidence shows however, that Garol clearly testified that he saw all of them stab the Barrio Captain, one after another and it was only after the Barrio Captain fell to the ground that he ran towards the municipal hall to report the incident to the police (TSN, page 11, Oct. 17, 1983).

Another circumstance allegedly raising grave doubts on the credibility of Dionilo Garol was his failure to report to the police authorities the fact of stoning (Rollo, pp. 71-72).

However, the fact of stoning was not the means used to kill the victim and the omission of the same in the narration in the report does not detract from the established fact that the victim was stabbed several times which caused his death.

It was also pointed out that Dionilo Garol testified that the store of the victim's wife was stoned while Bonifacio

Cero also testified that he was the one being stoned.

There appears to be no inconsistency between the two testimonies. The fact that the store of the victim's wife was stoned does not preclude the possibility that Bonifacio Cero was also stoned.

Finally, appellants maintain that Bonifacio Cero could not have seen with precision the stabbing of the victim while he was being hugged by Danny Esteban and he had a feeling that he would be killed by the group. Much less could it be possible for accused Danny Esteban, Leonilo Villaester, Sidrito Lokesio and Alfredo Dollantes who were at the store of Severina Cadillero, to join in stabbing the victim, the appellants argued (Rollo, pp. 73-74).

The records show that Cero testified that he saw appellants stab the deceased before he was embraced by appellant Danny Esteban who told him "do not interfere you are not a party to this. We have already gotten what we have been aiming for." (TSN, page 12, Oct. 18, 1983). Clearly, the language is unmistakable that in that at said point, the stabbing and the killing being described by all the witnesses had already been accomplished.

Indeed, if there be any inconsistency or contradictions in their testimonies, the same are trivial and merely refer to minor matters which do not affect credi-bility. They do not detract from the essential facts or vital details of the crime pinpointing their criminal responsibility (Appellee's Brief, p. 16). As held by this Court, discrepancies in minor details are to be expected from an uncoached witness (People v. Arbois, 138 SCRA 31). Such minor variations would rather show the sincerity of the witnesses and the absence of connivance between them to make their testimonies tally in every respect (People v. Pielago, 140 SCRA 419, 423). Truth to tell, such trivial differences constitute fail-safe reliability.

Accused Hugo Grengia claims that the trial court erred in not giving weight to the admission of accused Hamlet Dollantes that he was the lone perpetrator of the killing incident (Brief for Accused-Appellant Hugo Grengia, p. 7). Thus the defense argues that the accused Pedro Dollantes, Alfredo Dollantes, Merlando Dollantes, Lauro Dollantes, Sidrito Lokesio, Monico Dollantes and Leonilo Villaester, did not stab the victim and were not at the scene of the crime and that it was only accused Hamlet Dollantes who stabbed the victim.

As found by the trial court, such claim is not supported by sufficient evidence. On the contrary, an entry in the Police Logbook (Exhibit "D") of the Integrated National Police of Tayasan, Negros Oriental, shows that one Gloria Callao, wife of the accused Lauro Dollantes, turned over to the police two (2) hunting knives owned by the accused Hamlet Dollantes and Alfredo Dollantes. More-over, as correctly pointed out by the Solicitor General, such theory is belied by the identification made by the prosecution witnesses and by the number and location of the victim's wounds which are mute evidence that several persons committed the crime (People's Brief, p. 17).

As repeatedly held by the Supreme Court, the claim of alibi by the accused cannot prevail over positive iden-tification by credible witnesses (People v. Tirol, 102 SCRA 558); more so where as in the case at bar, it was not demonstrated that it was physically impossible for the accused to have been at the scene of said crime at the time of its commission (People v. Mercado, 97 SCRA 232).

On the other hand, the claim of Hamlet Dollantes of self-defense when he stabbed the victim is not sustained by the records. As found by the trial court, the victim was not armed at the time of the incident, so that there was no danger to the life and limb of the accused. The latter claims that he had to stab the victim who boxed him and would not release his wounded hand (Rollo, p. 76). Apart from the obvious disproportion of the means used to repel the alleged attack, three witnesses of the prosecu-tion testified that the accused Hamlet Dollantes rushed towards the victim and stabbed the latter at the back. Said testimonies were corroborated by the Post Mortem Examination (Exhibit "A") and the Sketch (Exhibit "B") of the human body of the victim which showed a stab

wound at the back. Furthermore, the nature, character, location and extent of the wound suffered by the victim, negates the accused's claim of self-defense. (*People v. Tolentino*, 54 Phil. 77). In fact, the eleven (11) wounds suffered by the victim are indicative of aggression (*People v. Somera*, 83 Phil. 548; *People v. Mendoza*, L-16392, Jan. 30, 1965).

Accused-appellant Hugo Grengia submits that the pro-secution failed to prove the existence of conspiracy. Among others, he pointed out that he was unarmed at the time of the incident, that his name was not mentioned in the report made by Dionilo Garol to Patrolman Barrera as to the perpetrators of the crime; that his name was not included in the entry in the police logbook of the Integrated National Police of Tayasan, Negros Oriental and that he had no participation in the commission of the felony except the alleged nodding of his head at a time when he was trying to wrest the knife from Pedro Dollantes which is not an indication of conspiracy (Brief for Grengia, pp. 13-16).

While it is true that the accused Hugo Grengia, Danny Esteban and Leonilo Villaester did not participate in the stabbing, the lower court finds them equally liable as principals with the other accused in this case. They were found to be holding stones which they threw at the store owned by the victim and his wife; they participated in kicking and dancing around the dead body of the Barangay Captain and although Grengia also tried to wrest the knife from Pedro Dollantes, he clearly told Dionilo Garol when the latter succeeded in getting the knife and was hold-ing the hands of Pedro Dollantes, "do not try to intervene here because you might be included in the plan." (TSN, pp. 7-10, October 17, 1983). Danny Esteban uttered the same statements to Bonifacio Cero, saying "do not try to interfere you are not a party to this. We have already gotten what we have been aiming for." (TSN, pp. 9-14, October 18, 1983).

Furthermore, as previously stated, while the victim was delivering a speech, Hugo Grengia was telling people not to listen to the victim as he will not stay long as a Barangay Captain. It is also to be noted that although he was a compadre of the victim, he never tried to help the former while he was being stabbed and after the incident, he never visited the victim's family.

Thus the lower court found the existence of conspiracy as follows:

"The accused Hugo Grengia, Danny Esteban and Leonilo Villaester by their acts, aimed at the same object, and their acts, though apparently independent, are in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments. The conduct of the defendants, before, during and after the commission of the crime clearly shows that they acted in concert. (*People v. Emilio Agag*, L-64951, June 29, 1984, Justice Relova) There being conspiracy, the Court finds them guilty of Murder." (Decision, Crim. Case No. 5832, Rollo, p. 77)

In one case, this Court held "that while the acts done by the petitioners herein vary from those of their co-accused, there is no question that they were all prompted and linked by a common desire to assault and re-taliate against the group. x x x . Thus, they must share equal liability for all the acts done by the participants in the felonious undertaking." (*Pring v. Court of Appeals*, 138 SCRA 185-186 [1985]).

Appellant Hugo Grengia lays much stress on the testimony of Dr. Rogelio Kho that it is possible that all the stab wounds were inflicted by the same weapon, in a desperate effort to show that only one person committed the crime and that there is no conspiracy.

The records show however, that said Doctor merely replied to the questions propounded by the defense lawyer as to the different possibilities on how the wounds of the victim may have been inflicted. But testifying specifically on the case at bar, he categorically stated that actually the wounds could be produced by a single bladed weapon with different sizes but not necessarily only a single bladed weapon.

Thus, the Doctor testified as follows:

"Atty. Jayme:

Q Basing upon your physical findings, Doc, upon the victim Marcos Gabutero, is it possible Doc, that in accordance with your drawing that the wounds inflicted was caused by a single bladed weapon, is it possible, Doctor, that this wound was caused by a single bladed weapon? Is it possible that this ... I repeat the question, your Honor.

Q According to your drawing which is labelled "BS" which according to you "blunt and sharp bladed weapon which is practically single bladed weapon, according to your physical findings there is similarly in the weapons used, could we say practically, Doctor, that these stab wounds as well as those incised wounds may be caused by one single-bladed weapon?

A Actually it could be produced by a single bladed weapon with different sizes but not necessarily only a single bladed weapon.

Q According to you it was a single bladed weapon with different or several sizes, now, what is your honest observation upon your physical findings, what will be the maximum weapon used? I have here a xerox copy for your own reference.

A With respect to the length of the wound there are two wounds that have three cm. in length, it could be possible that the same kind of weapon or instrument has been used. This refers to Wounds Nos. 10 and 11. By the way, Sir, this refers to the stab wounds because the size of the incised wounds is difficult to determine.

Atty. Jayme:

Yes, the stab wounds only.

A It's hard to determine Wound No. 9 because the length is not indicated here, so it is possible that there are 3 or 4 kinds of instrument or weapons being used. (TSN, pp. 26-27, December 15, 1983)

Appellant Hugo Grengia also emphasizes the testimony of Dr. Kho that the latter did not observe any contusions on the body of the deceased, obviously to disprove that appellants danced around and kicked the body after the victim was slain.

As correctly observed by the Solicitor General, "although the examining doctor failed to find any contusion or abrasion on the cadaver of the victim, nevertheless, such absence is not conclusive proof that appellants did not kick the deceased. It might be possible that kicks did not cause or produce contusions or abrasions or that they were not noticed by the doctor." (Appellee's Brief, p. 22). Moreover, the act of dancing and kicking complained of, is only one of the acts showing conspiracy, without which, conspiracy cannot be said not to have been established.

The lower court also found that treachery was present in the commission of the crime, and that the accused Alfredo Dollantes, Lauro Dollantes, Monica Dollantes, Sidrito Lokesio and Merlando Dollantes are as equally guilty as principals by direct participation. These accused took turns in stabbing the victim. In fact the victim was caught by surprise and did not have time to defend himself.

Finally, the records show that the Barangay Captain was in the act of trying to pacify Pedro Dollantes who was making trouble in the dance hall when he was stabbed to death. He was therefore killed while in the performance of his duties. In the case of *People v. Hecto* (135 SCRA 113), this Court ruled that "As the barangay captain, it was his duty to enforce the laws and ordinances within the barangay. If in the enforcement thereof, he incurs, the enmity of his people who thereafter treacherously slew him the crime committed is murder with assault upon a

person in authority."

There is no question that the trial court's conclusions on credibility of witnesses are entitled to great weight on appeal. (People v. Oliverio, 120 SCRA 22). After a careful review of the records, no plausible reason could be found to disturb the findings of fact and of law of the lower court in this case.

PREMISES CONSIDERED, the assailed decision is hereby AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

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