

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENIGNO PINEDA DIMATULAC, AND JOUIE T. GARCIA, ACCUSED-APPELLANTS.

G.R. No. 72400. January 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case was originally before us on automatic review arising from the imposition of the death penalty by the trial court. However, subsequent to the commutation of death as a penalty to reclusion perpetua pursuant to the 1987 Constitution, both accused manifested their desire to continue the case as an appealed case.

The information filed against the appellants alleged the following:

"That on or about the 12th day of August, 1983, at Barangay San Pedro No. 1, Municipality of Magalang, Province of Pampanga and within the jurisdiction of this Honorable Court, the above-named accused BENIGNO PINEDA Y DIMATULAC and JOUIE T. GARCIA, conspiring together and mutually helping and abetting one another, with intent to gain and by the use of violence against the person of Estela Pineda, did then and there wilfully, unlawfully and feloniously take and cart away with them —

"a) One (1) ladies wrist watch, valued at

P 800.00;

"b) One (1) college ring valued at

P500.00;

"c) One (1) White gold ring valued at

P3,500.00;

"d) One (1) Gold Necklace valued at

P1,400.00

"e) Cash money in the amount of

70.00.

Total — P5,700.00

belonging to the said Estela P. Pineda who, by reason of the aforesaid physical violence employed against her by the afore-named accused, that is by beating and hitting her on the head, as well as tying her hands and neck, sustained mortal injuries which caused her almost instantaneous death right on such occasion of the robbery said accused had conspiringly perpetrated.

"All contrary to law." (p. 6, Rollo)

During their arraignment on January 23, 1984, Pineda and Garcia both pleaded not guilty.

On August 19, 1985, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, this Court finds the herein accused BENIGNO PINEDA Y DIMATULAC and JOUIE T. GARCIA, GUILTY, beyond reasonable doubt, of the special complex crime of ROBBERY WITH HOMICIDE, as defined and penalized in subparagraph (1), Article 294, of the Revised Penal Code, committed with the aggravating circumstances noted above, and are each sentenced by this Court to the supreme penalty of DEATH, and to jointly and severally indemnify the heirs of the deceased Estela Pineda, in the sum of P22,266.40, as actual damages; P200,000.00 as moral damages; and P100,000.00 by way of exemplary damages, without subsidiary imprisonment in case of insolvency.

"With proportionate cost against both accused.

"In accordance with existing laws, let the entire records of this case, together with the transcript of stenographic notes, be certified to the Honorable Supreme Court for automatic review." (p. 47, Rollo)

The trial court based its findings of guilt beyond reasonable doubt on the facts which it summarized as follows;

"Orphaned at an early age, accused BENIGNO PINEDA y DIMATULAC, grew to manhood in the family of his uncle Gregorio Pineda, at the latter's house at San Pedro No. I, Magalang, Pampanga. Ever since the death of his parents, it was the uncle, Gregorio Pineda, now 71 years old, who supported Benigno thru the years,, provided him with all his daily needs and even sent him to the school which he quitted while on the 6th grade. To the uncle, Benigno, now 25 years old, was not a mere nephew but regarded as one of the family, even by his cousins, including the deceased, Estela Pineda.

"About a year prior to the incident in-question, the old man Gregorio Pineda, transferred his family's residence to their new house at Essel Park, Telabastagan, San Fernando, Pampanga. Benigno was left behind at Magalang to act as caretaker of the family's old house at San Pedro No. I. Staying with the old man at Essel Park were his son Ernesto Pineda, and two daughters, namely, Alma Pineda- Harder and the deceased Estela Pineda who, like her younger sister Alma, was-also a public school teacher at Magalang, Pampanga. A forty-four year old spinster at the time of her death." Estela was a Grade V school teacher at the Sta. Cruz Elementary School, some one (1) kilometer away from their old house at San Pedro No. I. It was established during the hearing that whenever she had classes, the deceased used to take rest at their house in San Pedro No. I, albeit she regularly returned home to Essel Park after her classes in the afternoon.

"In the morning of August 12, 1983, a Friday, the deceased, following her routine schedule, left home for her classes at the Sta. Cruz Elementary School. Before she left, however, she had an understanding with her sister Alma, that the two of them will meet each other sometime later in the day at their house at San Pedro No. I where they will change clothes to attend a despedida party slated to be held at 6:00 o'clock in the afternoon near the parish church of Magalang, in honor of their district supervisor Mr. Sanguyo, who was given an assignment in other (sic) district. When she left home that morning, Estela had with her the party dress of her sister Alma, and her own. Never must it have occurred to her that a ghastly death awaited her at their house at San Pedro No. I on that fateful Friday of August 12, 1983.

ALMA PINEDA-HARDER testified that at about 2:00 o'clock in the afternoon of August 12, 1983, she went to their house at San Pedro No. 1 to meet her sister Estela, as per their earlier agreement. When she arrived at the house, the front door was closed. She called 'ate, ate,' but nobody answered. She proceeded to the rear door which was also closed and -locked from the inside. After knocking for sometime, she heard the remark 'Oh,' from the accused Benigno Pineda, who was then upstairs inside the house. She returned to the front door and knocked again for Benigno to open it but the latter merely looked out from the window of the second floor. When she asked Benigno about her sister Estela and told him that she wanted to get in to change her clothes,

Benigno told her that her sister left a message that the two of them will change their clothes at the Sta. Cruz Elementary School. Upon being so informed, she boarded a tricycle for the Sta. Cruz Elementary School but she reached nobody (sic) at the school so she returned to their house at San Pedro No. I. On her return, she again knocked at the front door but nobody answered. She went to the rear of the house to check and there she met the other accused Jouie T. Garcia, whom she used to see at the house of their neighbor while they were still staying at San Pedro No. 1. Finding that the backdoor was padlocked and Benigno was no longer at the house, she went to the nearby store of Aling Mely and there waited for her sister up to 3:30 o'clock in the afternoon. When her sister did not show up, she proceeded to the despedida party in honor of Mr. Sanguyo near the parish church of Magalang, which was only a walking distance from their old house. She stayed at the party up to past 6:00 o'clock in the afternoon (sic), after which she returned to their house at Essel Park, hoping that her sister Estela, must have been already at home by that time. She arrived home at about 7:00 o'clock in the evening and immediately upon arrival she inquired from her father about her sister but she was told that Estela had not yet arrived. Apprehensive, she asked her father that they better go to Magalang. Whereupon, she, her father and her brother Ernesto, hurriedly left for their house at San Pedro No. I. When they arrived thereat, they found the house to be totally closed and padlocked, so they asked help from their neighbors, Betsy Macalino and the latter's husband. With a borrowed hammer, her father tried to open the padlock but he could not. While her father was trying to open the padlock, Jouie Garcia arrived and was requested by her father to open the door. Jouie was able to open the door by hitting the padlock with the hammer but as he was doing it, Jouie Garcia was trembling. After the door was forced open, she, her father, her brother Ernesto, the spouses Macalino and Jouie Garcia entered the house which was then dark. They put on the lights downstairs after which they proceeded upstairs where the light was also off. After putting on the light upstairs, they entered one of the rooms and there they saw the body of her sister Estela, lying sprawled and bloodied on top of a bed with both of her hands tied over her head with a panty and a rope, the other end of which was tied to one of the legs of the bed. Unable to bear the spectacle, she shouted and hurriedly run (sic) downstairs while her father fainted due to shock. That same night, police came and photos were taken of her sister as her lifeless body laid (sic) bathing in blood atop the bed with both of her hands hogtied over her head (Exhs. "D", "D-1" and "D-2"). On August 15, 1983, she was summoned by the police before whom she gave her written statement (Exh. "E")-

"The evidence shows that immediately after the discovery of the murder, a team of Magalang policemen referred (sic) to the scene while the victim was still lying on the bed. Recovered at the scene by the responding police officers were a piece of wood stained with blood, found near the door of the room where the gruesome killing took place (Exh. "H"); a hammer also stained with blood, recovered inside the same room (Exh. "I"); a piece of rope which the police found still tied around the victim's neck and which they did not remove (Exh. "J"); a piece of cloth soaked with blood used in gagging the victim (Exh. "L"); and a broken eyeglass found near the bed whereon the lifeless and bloodied body of the victim laid (sic) sprawled (Exh. "N"). Pfc. Domingo Dizon testified that when they arrived at the scene, he and his companion also found a black panty tied to the hands of the victim. They did not untie the panty when the victim was taken at a funeral parlor. Subsequently, the black panty (Exh. "K"), was turned over by the funeral parlor to the police.

"That same night of August 12, 1983, the cadaver was taken to the Funeraria Angelina at Angeles City whereat it was autopsied in the morning of the succeeding day by Dr. Alejandro Tolentino of the Magalang Rural Health Unit pursuant to a written request therefor by the Magalang Police Station Commander (Exh. "A"). In his autopsy report (Exh. "B"), Dr. Tolentino made the following findings:

"1.

Upon inspection, the clothing is soiled with blood. Hair matted with blood which came mostly from the scalp wound. Blood came out through the nose, mouth and ears. Face slightly flattened, left side, both wrists were bound overhead, with black panty and the neck tied with a piece of rope. Left middle finger was almost torn at the detachment of the terminal phalanx.

"2.

Scalp wound at the left side of the head measuring 4 cm., overlies the skull fracture where blood and C.S.F. came out. Below the cut near the temporal area was a big hematoma (2-1/2 x 3 cm.).

"3.

Below the left eye was a separated wound (1/2 x 3 cm.). Just below the wound there is an area which was contused bluish-red in color overlaying the fractured left maxillary bone. The prominent cheek bone was slightly flattened.

"4.

At the neck there was the marking of the rope which is depressed, contused and abraded.

"CAUSE OF DEATH:

"Shock, intracerebral hemorrhage cerebral-concussion and asphyxia due to multiple wounds and fractures caused by violent forceful beating and strangulation.

"Dr. Tolentino testified that when he autopsied the cadaver, the rope (Exh. "J") which was used in strangulating the victim was still tied to her neck; that the abrasions or 'gasgas' found on the neck was due to the rope; that the fractured left auxiliary bone of the deceased could have been caused by violent beating which also caused the prominent cheek bone to be slightly flattened because the beating pushed the bone inside; that the multiple wounds he found could have been caused by blunt objects and not by a sharpened instrument; that the intracerebral hemorrhage could have been caused by the bleeding of the head and the cheek bone due to the violent beating dealt on the deceased; that the scalp wound at the left side of the head must have been caused also by the beating; that the left middle finger of the victim was also torn and detached from its terminal phalanx because the victim must have been defending herself while the violent beating was going on; that the beating must have occurred first before she was strangled with a rope; that the victim must still (sic) been alive when she was strangled with the rope because there were contusions on the neck which indicate that she was still alive when the rope was applied; and that the beating alone was sufficient to cause her death. This witness added that after conducting the autopsy he issued the death certificate of the victim (Exh. "C"), at the back of which is reflected the cause of death (Exh. "C-2"), as culled from his autopsy report (Exh. "B").

"Likewise, that same evening of August 12, 1983, Pfc. Domingo Dizon and three other Magalang policemen, acting on an information they gathered from interviews of people whom they reached at the scene of the crime to the effect that accused Benigno Pineda, was at the house at about 2:00 o'clock in the afternoon and left for Angeles City at about 4:00 o'clock that same afternoon, tracked down Benigno to Angeles City. True enough, at about 11:30 o'clock in the evening of the same date, the pursuing lawmen saw Benigno in front of the Mercury Drug Store at Angeles City and immediately placed him under arrest. Found in his possession at the time he was apprehended were a set of keys (Exh. "P"); the coin purse of the deceased (Exh, "Q"); her missing gold necklace (Exh. "U"); and money paper bills and coins amounting to P10.45, and a pendant with the image of the Virgin Mary (Exh. "O"). Pfc. Dizon testified that when he asked Benigno where he got the items found in his possession, the same accused told him that he got them from his cousin, the deceased Estela Pineda.

"From Angeles City, Benigno was brought to the municipal jail of Magalang. Orally interviewed by the police on August 13, 1983, Benigno named the other accused Jouie T. Garcia, as his co-participis criminis in the perpetration of the crime in question. On the basis thereof and in the light of an earlier report by Barangay Captain Luciano Gina of San Pedro No. 1, that Jouie Garcia was Benigno's companion in the commission of the brutal slaying, Jouie Garcia was arrested by the police in the evening of August 13, 1983. Pat. Emerlito "Miranda testified that when they arrested Jouie Garcia, the latter was pumping water near the house of the deceased, adding that it was their companion Pat. Nolito Maliwat, who approached Jouie Garcia and invited him to the police headquarters. Pat. Miranda further testified that while they were on their way to the police station with the arm of Pat. Maliwat over the shoulder of Jouie Garcia, the latter (sic) run away after they had

walked a distance of about ten feet but they were able to catch him up (sic) after a chase and thereafter brought him to the police headquarters. That same evening, while Jouie Garcia was already in jail, the mayor of Magalang and the barangay captain of San Pedro No. 1 arrived at the jail and interviewed Jouie Garcia about the still missing jewelries of the deceased. Informed by Jouie that he concealed some of the jewelries in a trunk at their house, the mayor asked the jail guard Pat. Verano Manabat, to bring out Jouie from the jail so that he could lead them to their house. In the company of the Mayor, Pat. Manabat and the barangay captain, Jouie led the group to their house at San Nicolas II, Magalang, Pampanga. Pat. Manabat testified that on arrival, thereat, Jouie told his mother Rosalina Tungol, the following: 'Inay, pinalalabas nila yong alahas na ninakaw ko. Kung hindi ilalabas, papatayin nila ako,' to which the mother replied that he (Jouie) did not bring any jewelry to their house. Unable to get any jewelry, the group brought back Jouie to the jail.

"On August 15, 1983, accused Benigno Pineda, was formally investigated by Pfc. Domingo Dizon at the office of Police Station 219 of Magalang. Pfc. Dizon testified that before he proceeded with the investigation, he informed Benigno of all his constitutional rights, including the right to counsel, all of which were waived by said accused. He added that it was only on August 15 that Benigno was formally investigated despite his having been arrested as early as the evening of August 12, because the police were still in the process of gathering sufficient evidence.

Conducted in question-and-answer form and in the Pampango dialect, the result of that investigation, including Benigno's appraisal and waiver of his constitutional rights, is now contained in his signed confession sworn to by him before the municipal mayor of Magalang, in which confession (Exh. "G"), duly translated into English by the Clerk of this Court (Exh. "GG"), this accused Jouie T. Garcia, robbed and killed the deceased Estela Pineda, on that tragic Friday of August 12, 1983.

"After formally investigating Benigno Pineda, Pfc. Domingo Dizon interviewed Jouie T. Garcia who professed innocence of the crime and who declined to give any written statement upon being told of his constitutional rights.

"Meanwhile, on August 14, 1983, the Sunday immediately following the discovery of the heinous crime and while the body of the deceased still laid (sic) on state at the parish church of Magalang, Gregorio Pineda went to their house at San Pedro No. 1 to look for the missing jewelries which his deceased daughter Estela Pineda, was wearing in the morning of August 12, 1983, when she left home for school, namely, a Seiko lady's watch, a college ring, a white gold ring with 7 stones of diamond and a necklace, all worth P5,700.00, and a (sic) cash money of P100.00. Inside their chicken pen some five (5) meters away from their house, he saw something wrapped in a piece of paper which turned out to be some of the missing jewelries of the deceased. He called his neighbor Alfredo Macalino, and told the latter what he found, after which they summoned the barangay captain. In the afternoon of that same day, August 14, 1983, upon advice of the barangay captain, Gregorio Pineda turned over to the police the jewelries he found, namely, the deceased's lady's wrist watch, her college ring and her diamond ring (Exhs. "R", "S" and "T" respectively).

'Interred on August 16, 1983, the body of the deceased Estela Pineda, laid (sic) on state at the parish church of Magalang since August 13, 1983. For her wake and interment, the family spent P16,566.40 (Exhs. "F" to "F-4". inclusive). Unmarried to (sic) the time of her death, she used to give P600.00 to her ailing father, Gregorio Pineda." (pp. 170-176, Original Records).

The appellants assign the following errors as allegedly committed by the trial court:

(A)

THE TRIAL COURT ERRED IN NOT DECLARING AS INADMISSIBLE APPELLANT PINEDA'S ALLEGED EXTRA- JUDICIAL CONFESSION WHICH WAS OBTAINED THROUGH PHYSICAL COERCION AND IN VIOLATION OF THIS APPELLANT'S MIRANDA RIGHTS.

(B)

THE TRIAL COURT ERRED IN NOT ACQUITTING APPELLANT GARCIA SINCE THERE WAS NO ADEQUATE PROOF THAT HE ACTUALLY PARTICIPATED IN THE KILLING OF THE DECEASED OR THAT THERE WAS CONSPIRACY BETWEEN HIM AND APPELLANT PINEDA.

(C)

THE TRIAL COURT ERRED IN NOT DECLARING THAT THE PROSECUTION FAILED TO PROVE BEYOND REASONABLE DOUBT THAT THE COMPLEX CRIME OF ROBBERY WITH HOMICIDE WAS COMMITTED BY BOTH APPELLANTS, (p. 2, Appellant's Brief)

A discussion of the alleged coercion and intimidation in the first assigned error has become academic with the change in the Bill of Rights of the 1987 Constitution regarding the rights of the accused. Article 3, Section 12 of the 1987 Constitution specifically provides that the rights of the accused, among them the right to counsel, cannot be waived except in writing and in the presence of counsel. Thus, even if the confession of the accused is gospel truth, since it was made without assistance of counsel, it becomes inadmissible in evidence regardless of the absence of coercion or even if it had been voluntarily given. A review of the records shows, however that even without accused Pineda's confession of guilt, the evidence against him remains strong in the face of the proofs presented by the prosecution.

The accused-appellant's defense is mainly alibi. The records show not only that he failed to establish clear, positive, and satisfactory evidence as to his claimed whereabouts on that fateful day of August 12, 1983 but he was positively seen at the place of the crime, manifesting behaviour foreign to an innocent man.

The prosecution evidence shows that Benigno Pineda was at the victim's house in Magalang at 2:00 p.m., and left for Angeles City at 4:00 p.m. (p. 125, tsn., July 24, 1984). He locked the doors from the inside, did not open them to the victim's sister who wanted to come in, and misled her into going to another place where the victim was supposedly waiting. Benigno was apprehended by policemen at 11:30 p.m. in Angeles City at a nearby Mercury Drug Store. Found in his possession were a gold necklace and the coin purse belonging to the deceased Estela Pineda. The ownership of said items is beyond dispute and was, in fact, admitted by the accused himself. Pfc. Dizon, a policeman, testified:

“Q—

When you retrieved from his Exhibits “O”; “P”, “U”, and “O”, did you ask how he happened to be in possession of these items?

“A—

Yes, sir, he told us he got them from the victim Estela Pineda.” (p. 127, tsn, July 24, 1984)

There is likewise no reason to doubt the testimony of Alma Pineda-Harder, sister of the deceased, that Benigno Pineda was in the house at Magalang at 2:00 p.m., when Alma arrived because of an earlier arrangement to meet with her sister Estela and to change her clothes. There is nothing in the records to indicate that Alma was concocting a tale against a cousin who was the caretaker of their house and whom the family had brought up from childhood.

Benigno Pineda's refusal to open the door and subsequent announcement that Alma Pineda should proceed to the school on instruction of Estela Pineda (pp. 171-174, Original Records) is a clear indication that the accused

intended to mislead the sister of the deceased in order that the body of the victim would not be discovered at that time while he was there. When Alma returned, the accused was no longer there. The doors remained locked and Alma could not get inside their own house. Apart from the direct testimony indicating the presence of the accused in the very house and about the time the crime was committed, Benigno Pineda's own account of his whereabouts between 2:00 p.m., to 4:00 p.m., shows that he was within the vicinity at the time the crime was committed. (People v. Carandang, 52 SCRA 259; and People v. dela Cruz, 147 SCRA 359)

The narration by the accused of his activities during the period when the crime was committed does not inspire belief especially because he knew fully well that Estela Pineda would be back at noon to eat and to rest so that he was not supposed to lock the front door (pp. 217-219; p. 221, ts., Oct. 24, 1984). The accused-appellant was expected to cook lunch as was his usual task but he stated that he failed to do so on that particular day because according to him he felt lazy. He also claimed to have visited his friend Jouie Garcia but did not converse with him at any time during those two visits. This was something inconceivable considering that the two were close friends and Indong Macalino's house was not so big as to make it impossible for them to talk to each other. The rest of the activities while in Magalang as narrated by the accused were mostly spent sleeping — something unusual in the face of the incidents that transpired that day. The alibis of the accused-appellants are either flimsy or inconsistent on material points.

Jouie Garcia's own admission to Pfc. Dizon that he stole the jewelries and hid them in a chicken pen in Gregorio Pineda's house (p. 345, ts., Feb. 12, 1985) and the subsequent discovery of the same in the exact place mentioned by him is sufficient proof of accused Garcia's knowledge of and participation in the crime. The details given by the accused are peculiar to him only and could not have been a mere concoction of prosecution witnesses, there being no motivation on their part to do so.

The testimony of prosecution witnesses and the discovery of stolen items in the possession of the accused, show that the motive for the killing is robbery. Jouie Garcia's participation in the robbery had earlier been established. It is, therefore, not illogical to presume that he likewise participated in killing the deceased, the motive having been the robbery.

Previously decided cases support the contention that it is not necessary that conspiracy be proved by direct evidence (People v. Nabaluna, 142 SCRA 446). Neither is it essential that there be a previous agreement to commit robbery as the crime of robbery with homicide and conspiracy can be inferred from the acts of the accused such as the ransacking of cabinets (People v. Abueg, 145 SCRA 622).

The case of People v. Gapasin, (145-SCRA 178), specifically states that all who participated in the robbery are equally liable for the homicide perpetrated by the other co-conspirators. The crime is a complex one. Further, conspiracy having been established, the act of one becomes the act of all. Thus, it is no longer necessary to specifically lay out the participation of each participant (People v. Beltran, 138 SCRA 521; and People v. Garcia, 141 SCRA 336).

Other acts of the accused Jouie Garcia further establish the conspiracy between him and Benigno Pineda on the day of the killing. It is true that he denied having talked to Pineda on those two occasions saying that they had no chance to talk to each other as those two visits were very brief (approximately 30 minutes each) and that he was cooking breakfast when Pineda came to visit in the morning and that he was sleeping when Pineda came in the afternoon. The reasons given are unbelievable considering that they are close friends. Moreover, the reason given by Pineda for his visiting Garcia was boredom. Under normal circumstances, a person who is bored and who seeks company would try to strike a conversation with the person visited. It is, therefore, unusual that there was no conversation at all between them. How could we likewise explain how Jouie Garcia came into possession of

the missing jewelries which were stolen from the deceased? How can there be related acts between the accused, without their having conspired to rob the victim, on which occasion the deceased was killed?

There is no reason why Garcia could not have likewise participated in the killing, it having been occasioned by the robbery.

Garcia also failed to establish that it was not physically impossible for him to be at the scene of the crime. The alibi given by him is not at all credible. For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime (*People v. Coronado*, 145 SCRA 250), *People v. Pielago*, 140 SCRA 418; *People v. Catipon*, 139 SCRA 192; and *People v. De las Pinas*, 141 SCRA 379). It must be supported by clear and convincing evidence (*People v. Cruz*, 142 SCRA 576). On the contrary, he was even seen by the sister of the victim at the rear of the house when the former returned to their house at Magalang (p. 348, *tsn.*, March 13, 1985).

The case against Garcia is further strengthened by a show of apparent guilt on his part as when he was apprehended by police officers. He went with them but after walking a distance of 10 feet, ran away. He was, however, caught and brought to the police headquarters. The flight of the appellant is inconsistent with his plea of innocence (pp. 156; 153-160, *tsn.*, July 24, 1984). He likewise manifested guilt when his hands trembled when asked by the father of the deceased to open the padlock (pp. 12-13, *tsn.*, April 25, 1984).

In the face of the circumstances given, there is no merit to the accused-appellants' claim that at most, if guilty, they are only liable for the crime of robbery and not homicide.

Finally, the appellants assert that the evidence does not amount to proof beyond reasonable doubt to establish their guilt. This requirement in criminal law does not mean such a degree of proof, as excluding the possibility of error, produces absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind (Rule 134, Sec. 2, Rules of Court; *US v. Lasada*, 18 Phil. 90; *People v. David and Baesa*, 75 Phil. 778; and *People v. Lavarias*, 23 SCRA 1301).

In the case at bar, in spite of the existence of extrajudicial confessions unmarked by any taint of coercion or involuntariness, resort to circumstantial evidence has become a necessity because of the Bill of Rights provision making inadmissible confessions not secured in the presence of counsel. Crimes are usually committed in secret and under conditions where concealment is highly probable. To require direct testimony in all cases would result in the acquittal of guilty parties leaving them free to once more wreak havoc on society.

We find the circumstantial evidence attending this case sufficient to warrant a conviction. Rule 134, Sec. 5 of the Rules of Court states that there is sufficiency in circumstantial evidence when: 1) there is more than one circumstance; 2) the facts from which the inferences are derived are proven; 3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The requirements are satisfied in this case.

Equally important is the respect accorded by this Court for the findings of the trial court which observed the behavior of the witnesses and was thus in a position to better evaluate the facts and decide the case (*People v. Jones*, 137 SCRA 166; *People v. Amoncio*, 122 SCRA 686; *Legaspi v. Court of Appeals*, 142 SCRA 82; and *People v. Elizaga*, 73 SCRA 524).

WHEREFORE, the appealed judgment is hereby AFFIRMED except for the commutation of the death penalty to reclusion perpetua.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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