

## THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. EMILIO VALDEZ, DEFENDANT AND APPELLANT.

*G.R. No. 8185. March 25, 1915*

Ponente: CARSON, J.

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### CARSON, J.:

Emilio Valdez, the defendant and appellant in case No. 8185, and Juan Gatmaitan, the defendant and appellant in case No. 9021, were charged in the court below with the murder of Eusebio Yuson, deceased. They were tried separately, by different judges, and each was convicted of the crime with which he was charged. Valdez was sentenced to death, and Gatmaitan to cadena perpetua (life imprisonment), he having been given the benefit of the provisions of article 11 of the Penal Code, upon a finding that he is a densely ignorant man, of a low order of intelligence and lacking in instruction both mental and moral.

The records of the separate trials were brought here independently, but, at the request of counsel, the appeals were heard and considered together, in order to give counsel for the defense an opportunity to develop any inconsistencies or contradictions which might appear as a result of a critical analysis and comparison of the evidence of record in both cases. As will be seen hereafter, the case for the prosecution against both of the accused rests in large part upon the testimony of the same witnesses, and it was deemed in the interests of justice to permit counsel for the defense to make the fullest use of all the evidence adduced in both cases in behalf of both and each of them. Counsel rightly contended that if the credibility of the material witnesses for the prosecution in either case can be impeached successfully by critical analysis and comparison of all the evidence of record in the two cases, the judgment of conviction entered in that case should not be affirmed without first giving the accused an opportunity to take advantage of the weakness thus developed in the testimony upon which he was convicted.

Valdez was tried first, Gatmaitan being one of the principal witnesses for the prosecution. Upon the trial of Gatmaitan, some time afterwards, his own evidence, given at the trial of Valdez, was used against him. Otherwise the evidence for the prosecution was substantially the same in both cases. Gatmaitan, however, went on the witness stand in his own defense and repudiated his testimony given at the trial of Valdez; and at the trial of Gatmaitan a number of new witnesses were called in a definite attempt to fix the responsibility for the murder upon a nephew of the deceased, against whom the finger of suspicion was raised at the trial of Valdez, but without any very determined effort by the defense to establish his guilt.

The decision filed by the trial judge in the Valdez case sets forth, as we believe, a fair and impartial account of the material facts disclosed by the evidence, and for a proper understanding of the issues raised on this appeal perhaps we can do no better than to set out his opinion in full. It is as follows:

"Eusebio Yuson lived with his wife Perfecta de Guzman in their house situated on Calle del Corro in the municipality of Gapan, Province of Nueva Ecija. On Sunday morning, March 17, 1912, he left the house and went to the cockpit of San Miguel de Mayumo, where he was in the habit of going every Sunday to gamble on the fighting cocks. At 7 o'clock at night of the same day his wife awaited him, for he was to return at that hour,

as in fact he did by the, last train, and that her husband might see his way she ordered a light placed in the zaguan or vestibule. Yuson arrived in a carromata, alighted from the vehicle in front of his house, but did not enter the building by the front door, that is, by passing through the zaguan, as his wife wished him to do. She was at the window and said to him in a loud voice: 'Pass through the zaguan which is lighted, and not by the other door which gives on the stair of the azotea, because that is dark and you may stumble as you are nearsighted.' He preferred to pass by the stair to the azotea, and before he had climbed to the top, upon arriving at the second step therefrom, a shot from a gun was heard, the shot, entering Yuson's back and passing completely through the thoracic cavity, caused his instantaneous death, and he fell headlong and face downwards on that step. The servants of the house, on learning of the occurrence, cried out: 'He has met with a misfortune!' Doña Perfecta, who from her seat near the window had gone to the azotea for the purpose of meeting her husband, on hearing the shot and the cries, fell in a faint; when she came to she succeeded with the aid of the servants in getting up and then went toward the stair where she found the lifeless body of her husband. It was bathed in blood, pierced with shot and was lying near the third or fourth step from the bottom, where it had slid from the second step from the top, in an oblique or diagonal position. The widow and the other inmates of the house immediately called out for help and were heard by a nephew of the deceased who lived in a house near by and who opened his window and fired three shots in the air with his shotgun for the double purpose of putting the robbers to flight, for he then believed that an assault had been committed on Yuson's house, and of alarming the town by notifying the people of what had happened. A little while afterwards, that same night, the local authority visited the place of the occurrence, accompanied by the president of the municipal board of health, Jose de los Santos. The latter examined the body of Eusebio Yuson and found thereon the following wounds: nine gunshot wounds penetrating the right side of the posterior thoracic wall, or the back, and five holes on the right of the front part of the said thoracic wall where the shot had passed out. The majority of the first holes were about two centimeters apart, and others as much as seventeen centimeters. The holes in front were twelve centimeters apart. According to the aforementioned president of the board of health, these wounds affected the right lung and other important organs in the thoracic cavity and caused a hemorrhage which produced the almost instantaneous death of Eusebio Yuson. Captain Crockett, chief inspector of the Constabulary of this province, having learned of the crime, on the following day visited the place of its commission for the purpose of examining the premises and surroundings and taking the necessary information. The result of his examination and investigation appears in his testimony, and that testimony shows that the shot which caused the death of Eusebio Yuson must have been fired from a double-barreled shotgun loaded with shells containing nine small bullets or buckshot; that the persons who fired the shot must have been situated a few yards away from the left side of the stairway, near an inner fence of the yard and protected by the shade of an acacia tree. On the ground at the right side of the stair, the captain found a wad that had been used in a shotgun and also a small leaden bullet embedded in a brick and cement pillar at the top of the stairway and in the same direction in which Yuson ascended when he was shot. This witness spoke of the condition of the yard and said that it was surrounded on all sides by an outer fence, broken down in several places, and by another inner fence which ran alongside the stair close to the trunk of the acacia tree. These facts, brought out in the testimony of the aforementioned Captain Crockett, Jose de los Santos, Perfecta de Guzman and Candido Garcia, show the existence and commission of the crime of murder, the object of the present action.

"From the testimony of other witnesses presented by the prosecution, namely, Juan Gatmaitan, Mateo Arcilla, Lucas, Figueroa, Victor Robaya and Tomas Diego, taken altogether, it is concluded that the violent death of Eusebio Yuson was caused by the defendant Emilio Valdez and the said witness Juan Gatmaitan, and was effected by means of the double-barreled shotgun belonging to the other defendant, Francisco Amante.

"For reasons which will be set forth hereinafter, Emilio Valdez, from the fall of 1911 or before the time of the rice harvest of that year, had resolved to deprive Eusebio Yuson of his life. With this end in view, he sought to avail himself of the assistance of Juan Gatmaitan and to that end, after the harvest, went to the latter's hut in the rice fields outside the town.

"Purely as though it were a matter of a lucrative business he proposed to Juan Gatmaitan that the latter kill Eusebio Yuson and promised him P900 if he would, but Gatmaitan was afraid and rejected the proposal. One of the details of Valdez' plans was that Yuson should be killed with a firearm, but as he dared not use his revolver for the purpose, for fear of incriminating himself, since he had been issued a permit by the Government for the use of that weapon, he preferred to employ the double-barreled shotgun owned by his brother-in-law, Francisco Amante, who was also provided with a permit. Therefore, on Saturday afternoon, the day before the crime was committed, he sent a letter by Mateo Arcilla to Francisco Amante, who was out on the rice plantation, instructing him to bring the shotgun to the pueblo that night because Valdez needed it. Consequently, Amante took the shotgun to Valdez' house and in doing so had himself accompanied in his carromata by Mateo Arcilla, because it was already growing dark and because Arcilla was an old tenant of Valdez. Amante, besides being the latter's brother-in-law, was his manager on the hacienda or lands in the barrio of Santo Cristo in Gapan. On the morning of the said Sunday, after mass, Mateo Arcilla went to his employer's house, as he was in the habit of doing. He found Valdez in a room of the ground floor and the latter then proposed to him, also as being a good business transaction for which Valdez would pay P1,000 and furnish the shotgun, that Arcilla kill Eusebio Yuson. Arcilla through fear rejected the proposal and, besides, having understood furthermore that the act contemplated Was a bad one, called the attention of his employer to that fact and asked him why he was trying to kill Yuson, since the latter was a very good man and very charitable to the poor. Valdez, despite the rejection of his proposal, first by Gatmaitan and afterwards by Arcilla, did not abandon his criminal purpose and, in order thenceforth to maintain secrecy in his plans, took good care to impose silence upon the said witnesses, threatening that if they betrayed him he would either kill them or order them killed by some of his large following. The said Sunday, March 17, was the day chosen by Valdez for the commission of the crime, and he selected the time when Eusebio Yuson would return for the night to his house from the cockpit of San Miguel de Mayumo. At about 5 o'clock in the afternoon Valdez went in his carromata to the rice field, looked for Juan Gatmaitan in the latter's shack and, having found him, invited him to take a ride through the streets of the town. Gatmaitan accepted and was taken to Valdez' house where he waited outside while Valdez went in to get and load his shotgun; a few moments afterwards Valdez came down the stairs of the azotea and from the yard handed the shotgun over the fence to Gatmaitan, who was waiting for him outside in the street. Valdez then immediately joined Gatmaitan and they both walked in the direction of Eusebio Yuson's house until they arrived at a corner, between an empty store near Yuson's yard and Dr. Adorable's house on the other side of the street, where they halted. In order better to prepare for the deed and insure its impunity, Emilio Valdez, on returning to his house with Gatmaitan and finding Mateo Arcilla waiting for him in the kitchen, ordered the latter to pass along the street in front of the town hall to see if the municipal police had gone out on patrol, and charged Arcilla, in case they had, to notify him at the said corner where Valdez would wait for him. That same afternoon Valdez had spoken to Lucas Figueroa and offered him P39, to watch the movements of Eusebio Yuson and report the latter's arrival to Valdez, who would await Figueroa at the corner aforementioned. A little after 7 o'clock at night and immediately after Valdez and Gatmaitan had received notice from Figueroa that Yuson's carromata was approaching, Valdez, together with Gatmaitan who carried the shotgun in his hand, entered the yard surrounding the house by passing under the fence; they then posted themselves near a large acacia tree to await Yuson who, almost at the same time, alighted from the carromata and entered the yard. Finally, while Yuson was climbing the stairs of the azotea and had reached the second step from the top, Valdez ordered Gatmaitan to fire at Yuson, but as Gatmaitan either did not wish or did not know how to shoot, Valdez helped him and personally fired the shot that caused the death of Yuson, as hereinbefore related.

"The crime committed by Valdez and Gatmaitan is that of murder, provided for and punished by article 403 of the Penal Code and qualified by the specific circumstances of known premeditation, treachery, and of price or promise of reward. No great effort is needed to prove that the crime under prosecution was attended by these three circumstances. Any one of them is sufficient to qualify it as murder, and in this case the other two should be considered as generic aggravating circumstances; adding to these the aggravating circumstance of nocturnity, because the crime was purposely committed at night, the result is that the murder in question was

perpetrated with three aggravating circumstances and without any mitigating one. Emilio Valdez is a highly educated man and is very prominent in the pueblo of Gapan both on account of his social standing and his wealth.

"The evidence shows beyond all reasonable doubt that Emilio Valdez is guilty of the murder of Eusebio Yuson, as a principal, by inducement and by direct participation: inducement, because he ordered and paid others to kill Yuson; and material participation, because Valdez himself, as we have seen, cooperated in the perpetration of the crime.

"Emilio Valdez offered no serious defense in his behalf. He merely produced evidence tending to prove: (1) The impossibility of having caused the death of Yuson with Francisco Amante's shotgun, because this weapon was in the hacienda warehouse during the night of Saturday, March 16, and for some days thereafter; and (2) an alibi, that is, the impossibility of Valdez' having committed the crime, because, on the date of its commission, from 5 o'clock in the afternoon until after 7 o'clock at night, he was at the house of a woman named Guillerma Liuag in the municipality of Gapan; that thence he went directly to his house, where he had scarcely arrived when he heard the first shot; that two minutes afterwards he went to the window and from there called to the municipal police in the town hall, thus bringing the occurrence to their attention, and asked them why they did not go immediately to the place.

"The first point of defense above mentioned is inadmissible. The witnesses presented in its support were very partial and interested. Andrea Reyes is the mother of the defendant Valdez. Engracio Nolzco is an old tenant of the Valdez family. Andrea Reyes, upon being cross-examined by the fiscal, testified that she was asleep at 8 o'clock of the night when she said that Francisco Amante went to the threshing floor, and that she did not awake nor see the latter again until the following day at the time when Amante left the warehouse to go to take the train for Manila. So that, during the night, while Andrea Reyes was sleeping, the shotgun might have been taken from the warehouse without her knowledge. The old man Nolzco said that he had a house where he lived alone; nevertheless he pretended that he slept in the warehouse, though no special reason is known why he should have passed the night there. As regards the alibi set up by Emilio Valdez, it should be rejected on account of the interest and partiality shown by the witnesses brought forward to support it, and because this alibi, according to the evidence introduced by the Government in rebuttal, is false. The witnesses presented in support of the alibi are; Matea Domingo, a servant long the service of Emilio Valdez; Miguel Liuag, a candidate for president at the last election and in whose behalf the defendant Valdez actively worked as his principal supporter; Antonio Liuag, a farm laborer, who as it is said is the best 'gallo' of the party of Valdez and Liuag, the word 'gallo' meaning that Liuag would never separate from them or their party; and, finally, Gil Abad who, as he testified, while passing in front of the house of Guillerma Liuag at about half past six o'clock in the evening, saw Valdez and Miguel Liuag looking out of the window and invited them to come with him and play dominoes in Dr. Pardo's pharmacy; notwithstanding, Abad did not go to this pharmacy but to that of Dr. de los Santos. Abad denied having heard shots on the night of the occurrence, but nevertheless, on cross-examination he contradicted himself, for he gave it to be understood that he not only heard those shots, but also was aware of the disturbance made by the people and of the fact that they all closed their houses in fear of the occurrence, which was thought at the time to be an assault by robbers upon Yuson's house.

"It is obvious that witnesses of this kind cannot successfully support an alibi, and more especially when, as before stated, the alibi has been disproved by rebutting evidence. Joaquin Garcia, a witness for the prosecution, testified that after 5 o'clock in the afternoon or before sunset of the Sunday when the crime was committed, he went to Guillerma Liuag's store, situated in the lower part of the latter's house, and while there saw Emilio Valdez go out of the door and direct his steps toward the east of the rice held. Several of the police officers, who on that night went to the scene of the crime, stated in their rebutting testimony that they did not hear Emilio Valdez shout to them from his house, and this notwithstanding that his house is but a short distance from the town hall where they could very well have heard him, however little he had raised his voice. One of these policemen, a corporal, who was mentioned by Valdez as being the same corporal with whom he spoke

when this officer chanced to pass along the street in front of the window of the house, testified that when he saw and spoke to Valdez it was not two minutes after the shot, but a long time afterwards.

"So, then, the evidence of the defense does not prove Valdez' innocence. His salvation must be sought, not in his evidence, but in that of the prosecution. If the evidence of the prosecution is not conclusive and any reasonable doubt should arise from its insufficiency, Valdez may be favored by the benefit of that doubt; otherwise, it must inevitably be held that he is guilty. The defendants understood this and, for the purpose of discrediting the principal witnesses of the prosecution and impeaching their testimony, proved: (1) That Gatmaitan, Arcillia, and Figueroa pleaded guilty, in the justice of the peace court, to the charge of murdering Yuson, exactly as they were charged in the complaint there filed by Captain Crockett; (2) that Gatmaitan was convicted of the crime of theft and sentenced therefor to two years eleven months and eleven days of presidio correccional; and (3) that Gatmaitan and Figueroa, prior to the trial, subscribed and swore to affidavits, the contents of which do not agree with the testimony respectively given by them at the hearing of this case. The defendants also tried to show that several complaints were filed in this cause, and alleged that this difference proves that Gatmaitan, Arcilla and Figueroa made different statements to the fiscals each time that the latter questioned them in the investigation. The court, however, is of the opinion that, notwithstanding these claims made by the defense, the testimony in question has not been destroyed, but must be considered and taken into account in rendering judgment in this case.

"The reason why Arcilla and Figueroa pleaded guilty before the justice of the peace is explained by these men in their testimony both on direct examination and in rebuttal. Their explanation should be accepted as satisfactory, for it is seen that these witnesses are very ignorant and entirely lacking in education. It is sufficient to remember that, in order to give an idea of the years or months, they refer to the last year's crop or to that of the year before, or to the rainy season or to the dry months; that, to determine the hours of the day, they mark the height of the sun over the horizon, and, to fix distances, they know of no other measure than the rope used on a carabao, or compare the distance they are questioned about with that lying between the chair in which they sit and the building or the corner in front of them. With respect to Gatmaitan's confession, bear in mind that it in no wise conflicts with his testimony, for he admits now, as he did before the trial, that he assisted in killing Yuson.

"That Gatmaitan is a criminal and a convicted thief is a fact that in no wise favors Valdez. Valdez would not have dared to make the criminal proposal to an honorable person, for instead of finding an accomplice or assistant, he would have found an accuser. It is only thieves who allow themselves to be seduced by filthy lucre, though in exchange for the commission of a crime. Valdez could not have found another better instrument than Gatmaitan. He knew his history and his past record. It is Valdez who has brought into the record of this case the judgment of conviction rendered against Gatmaitan for theft. It is understood why Valdez, after having sought Gatmaitan, first tried to win his good will and afterwards corrupt him with money.

"The fact that before the trial Gatmaitan and Figueroa swore to statements that differed from those they made under oath at the trial, was explained by them when they testified as witnesses both on direct and on cross-examination. We must not lose sight of the state of mind of those witnesses when they subscribed and signed their affidavits. They had been solemnly threatened with death at the hands of Valdez or his band, if through their statements or revelations Valdez should be imprisoned. They testified that this threat and the consequent fear that it would be carried out weighed on their minds while those affidavits were being drawn up. Nothing in the record shows that the explanations of these witnesses are false. On the contrary, it is seen that as in the first affidavit by Figueroa the affiant makes no mention whatever of the name of Emilio Valdez, in his second affidavit, made three days after the first, he finally does name Emilio Valdez; and this is because at the time Figueroa made each of these affidavits he was already in the power of the Constabulary, and it is natural that he should believe himself safer in that situation from the threats or the vengeance of Valdez. There is no evidence whatever that Figueroa made such statements solely and exclusively under hope or promise of safeguard and protection. As regards the affidavit of Gatmaitan, it is to be noted that its contents are not in

conflict with his testimony in this case, but that such testimony is virtually an amplification of that affidavit. Gatmaitan said that through fear of Valdez he did not in the beginning testify to all that he knew, but when he testified in the hearing of the case before this court, he finally told the whole truth.

"That the complaint filed in this case by the fiscal Villa Real, an assistant attorney of the Bureau of Justice, differed from that subscribed by the provincial fiscal and which was read to the defendants Valdez and Amante, does not necessarily mean that the witnesses for the Government gave contradictory or false information. Such a discrepancy will sometimes arise from an error or a misunderstanding on the part of the complainant. For this reason the law allows him to amend the complaint, both in substance and form, before being read to the accused and answered by them.

"There are many who believe that the mere fact of a person's offering to testify in a case as a witness for the Government is a sufficient reason for denying him credence, in spite of his oath to tell the truth; they also believe that if such a person was in the power of the Constabulary and while in its custody made statements, these statements are false, and are only the result of inducement or threats or else of a promise of clemency or protection. But we have seen that Juan Gatmaitan is accused of the same crime of murder with which Valdez and Amante are charged; and that Gatmaitan, upon taking the witness stand, was warned by the defense that any incriminating testimony given by him against Valdez and Amante might hang them; likewise that incriminatory statements by him against himself might result in his sharing the same lot, despite any promises of protection and liberty which might have been made to them by any prosecuting officer, clerk of court, member of the Constabulary, or jailer. Gatmaitan was informed of all this; and if, notwithstanding such information and the warning which was so emphatically addressed to him by the defense, he persisted, while testifying, in inculcating others and incriminating himself, the court certainly finds no manner of reason to reject that testimony. Should it be thrown out merely because Gatmaitan was a witness for the Government? It is evident that it should not. Should we reject that testimony solely on account of a suspicion that the witness, under promise of liberty, might have been taught or induced to say what he did? This is incredible, the more so, if we take account of the fact that the prosecuting attorney, instead of asking for the release of Gatmaitan, has, according to the record, recently filed a formal complaint in this court, under No. 2093, against Gatmaitan, charging him with the murder of Yuson. Up to the present time no formal complaint has been presented against Arcilla and Figueroa, but, as has been seen, they were charged with this crime in the preliminary investigation made in the justice of the peace court and by reason of the complaint are now prisoners in the custody of the Constabulary, by order of the justice of the peace. Shall we also say that these witnesses were so detained for the purpose of drawing from them incriminating testimony against Amante and Valdez? This is a supposition which these witnesses deny and, consequently, it appears to be more just and reasonable to believe that, if they are now in the custody of the Constabulary, it is for the double purpose of protecting them from the vengeance of Valdez and Amante and of withdrawing them from the powerful influence of Valdez and his followers, who otherwise might make them retract their previous statements. The record contains a fact in support of this opinion. The witness Braulia Arcilla testified that, after Valdez had sent for her several times, she went to his house and he there instructed her to make a statement favorable to her brother Mateo Arcilla, in order that the latter might be set at liberty, and Valdez said that not only would he defray the expenses of the attorney who prepared that statement, but also those incurred by Braulia in going to Cabanatuan to see Mateo. At the same time Valdez instructed Braulia that when she saw her brother Mateo she should tell him to plead guilty, for such an admission was of no importance as the latter could withdraw it or change it at any time afterwards. On that same occasion Valdez and his sympathizer, Mariano Suniga, intended to write a letter to Mateo Arcilla to instruct him to plead guilty, but they desisted from their purpose on reflecting that such a letter might prejudice Valdez. Of course Valdez denied having given such instructions to Braulia Arcilla, but there can be no doubt that it is she, and not Valdez, who told the truth in this matter. Far from therehaving been shown in this case any sufficient reason to reject the testimony of Gatmaitan, Arcilla and Figueroa, the court is of the opinion that this testimony is in all respects worthy of credence. They were not friends, relatives nor employees of the deceased, neither did they owe favors to him or to his family. They are not enemies of the defendants and have not been paid for testifying against them. It has already been said that Arcilla was an old tenant of the Valdez

family. They had no favors or benefits to expect by testifying against Valdez; on the contrary, by telling the truth they have prejudiced and incriminated themselves.

"A good deal of talent is required to invent a drama such as these witnesses have related, the denouement of which was the murder of Yuson; and for such witless persons to have been able to reproduce that drama here by narration we are forced to admit that they did in fact act the very role which each of them attributed to himself.

"Their testimony is attacked as being unlikely and suspicious, but nevertheless it is strongly corroborated by the evidence of record. The promise of money, mentioned by Gatmaitan as made to him by Valdez, is confirmed by Arcilla, to whom a like promise was made. Valdez' letter, which Arcilla testified he delivered to Amante, instructing the latter to bring his shotgun to the pueblo, was seen and read by Victor Robaya, a disinterested and impartial witness in this case. The delivery of the shotgun by Valdez to Gatmaitan was witnessed by Arcilla. At the corner of the street near Yuson's house, Tomas Diego, who is also an absolutely impartial witness in this case, first saw Valdez alone and a moment later saw him accompanied by another man, who must have been Gatmaitan. The notice of the arrival of Yuson, which Gatmaitan said was given by Figueroa to Valdez and Gatmaitan, is confirmed by Figueroa, who also confirmed the fact of his having been offered money by Valdez to watch Yuson's movements. These three witnesses spoke of words addressed to Yuson by his wife, when she told him to enter the door of the zaguan; they alluded to the shouts of the servants of the house in giving the alarm and announcing the misfortune that had befallen their master; and, finally, they mentioned the shots discharged from a firearm. All these particulars are corroborated by the testimony of the widow and the other residents of the place, including the witnesses of the defense themselves with regard to the shots. The details of the place or scene of the crime, as described by these witnesses, were verified by the inspection there made by Captain Crockett. If these witnesses had not been in the yard on the night of the occurrence, it would be impossible to explain how they could have given those details. There is no evidence that they were ever in the said yard either before or after the crime. It is presumed that they were not acquainted with the yard, because they were farm laborers living out in the rice fields and because the lot in question was inclosed by a fence.

"In order to determine the weight that should be given to the testimony of these three witnesses, that of any particular one should not be analyzed or examined apart from that of the others, as has been done by the defense. Both logic and sound judgment require that the testimony should be considered as a whole, and we must seek the intimate relation which exists between that of one and the other, without ever losing sight of the support furnished such testimony by other sources. By any other method of examination, no witness, either of the prosecution or of the defense, could be deemed to be truthful, nor could the testimony of any witness be considered conclusive. With respect to the disagreements found in details of scant importance—granted that such disagreements appear in the evidence—they ought not to obscure or cast doubt on the substantial or essential features of the facts. On the contrary, it should be borne in mind that discrepancies in testimony allay the suspicion of any conspiracy or collusion. If the principal facts are fully proven, the lack of a satisfactory explanation of a minor detail, should there be such in the evidence of the prosecution, cannot support a reasonable doubt.

"The motives for the crime as shown by the prosecution, were two actions which the deceased, Eusebio Yuson, successively maintained against the family of Emilio Valdez, concerning the survey of the lands in the barrio of Santo Cristo, Gapan, and an easement of water on these lands. Although both suits were settled by compromise between the litigants, it is a fact that after the adjustment the friendly relations that had previously united them became notoriously strained, to the extent that the Valdez family ceased to visit the house of Yuson and refused to greet the latter or to speak to him on the streets and other parts of the pueblo. Attorney Santos, as a good witness and relative of Valdez, testified that the adjustment referred to was satisfactory to both litigants and that after that adjustment Yuson and Valdez met each other one day in the cockpit, shook hands there, talked with one another and sat down together. That which Mr. Santos relates does not prove that

the former friendly relations, interrupted by the suits, may have been renewed, neither does it preclude what the witnesses for the prosecution testified, to wit, that the two families in question refused to greet and talk to each other in the street and that the visits between the Valdez and the Yuson families had not been resumed. The proof that neither Valdez nor any member of his family attended Yuson's funeral is very significant, since the deceased was a prominent man of his pueblo and had met with a violent death. One can never foretell the consequences of a disagreement or enmity until such consequences are seen. It would seem that a disagreement of three years' standing could not give rise to so atrocious a crime as the murder of Yuson; but after that murder was committed by Valdez, it would be improper to assign the motive to any other cause than his previous enmity toward the deceased. The widow Perfecta de Guzman testified that the defendants Valdez and Amante were very envious of her husband because he was very active and industrious and prospered in the pursuit of his occupation of agriculturist. If this is so, as it must be, because the widow was not contradicted on this point, it is easy to understand how the old animosity of Valdez and Amante toward Yuson must have revived at the time of last year's harvest on their seeing that their enemy, Yuson, succeeded better than they, perhaps favored by that irrigation ditch which was the subject matter of the aforementioned legal proceedings. Envy has not been less prolific in crimes than hatred. Aside from this, the witness Rufino Alacon spoke of a certain threat which Valdez and Amante, while in the irrigation ditch referred to, made against Yuson, saying that "his day would surely come." This threat was not denied by Valdez, nor does the record show that he afterwards withdrew it.

"The evidence of the prosecution, in so far as it concerns the defendant Francisco Amante, is not, in the judgment of the court, sufficient to establish his guilt nor his participation in the crime. Although it was proven that Amante was at outs with Yuson and that the said Amante, after receiving the letter from his brother-in-law, Valdez, went to the latter's house to deliver the shotgun to him, yet evidence is still wanting to show that Amante knew for what use Valdez needed the weapon and that Amante consented to that use. Both of these points may be presumed, taking into account the relationship between Amante and Valdez and the fact that they were both at outs with the deceased. Such a presumption may also be drawn from the fact of Amante's having taken the shotgun to Valdez, at night, and directing Arcilla to keep silent in the matter; but against such presumptions we have the stronger one of this defendant's innocence. Moreover, Amante testified as a witness in his own behalf and denied knowing that Valdez would use or intended to use the shotgun to commit any crime. Clear and positive proof, and not mere presumptions or conjectures, is required to convict an accused.

"For all the foregoing reasons, the court pronounces judgment and freely acquits the defendant Francisco Amante, for insufficiency of proof, with one-half of the costs de officio, and his immediate release is ordered; the other defendant, Emilio Valdez, is found to be guilty, beyond reasonable doubt, of the murder charged against him in the complaint. The said Emilio Valdez is therefore sentenced to the penalty of death, to indemnify the family of the deceased in the sum of P2,000, and to pay the other half of the costs. For the review of this judgment in so far as it refers to Emilio Valdez, let the record of this original case, together with all the testimony and evidence taken, be forwarded in consultation to the Honorable Supreme Court of the Philippine Islands, whether or not this judgment is appealed from by the said Valdez. It is so ordered.

"Given in San Isidro, Nueva Ecija, this 16th day of July, 1912.

(Sgd.) "ISIDRO PAREDES,

"Acting Judge, Fourth Judicial District."

Upon arraignment at his own trial Gatmaitan made the following statement:

"I do not deny that I should be punished, but I cannot admit that it was I who fired, but that it was he" (referring to Valdez).

But later he went on the witness stand in his own behalf, repudiated all his testimony in the former case, denied all

knowledge of the commission of the crime, attempted to set up an alibi, and swore that he had been induced to testify falsely in the former case, partly by the use of force and threats by Captain Crockett, Lieutenant Steffee, and other officers and soldiers of the Constabulary in whose hands he had been held prisoner, and partly by the suggestions of Arcilla and Figueroa who, like himself, were held for some considerable time in arrest under charges of guilty complicity in the commission of the crime.

We agree with the trial judge that his testimony in his own behalf is wholly unworthy of credit. The contradictory and highly unsatisfactory explanations given by him of his motives for testifying against Valdez at the former trial are so incoherent, irrational and incredible as to cast a doubt upon the truth of all that he said while testifying on his own behalf; and the testimony of the witnesses called in rebuttal conclusively establishes the falsity of every material statement made by him on that occasion.

From the testimony of Lieutenant Steffee and of the Constabulary guards who were on duty at the Cabanatuan cuartel from May 23, when Gatmaitan was arrested, until May 28, when he made his extrajudicial confession implicating Valdez, it is clear that the three accomplices, while all detained in the same barracks, were confined in widely separated cells, and that the guards had strict orders not to allow them to communicate with each other.

Gatmaitan's statements as to the torture inflicted upon him by the junior officers and soldiers of the Constabulary in order to induce him to confess and to implicate Valdez are positively contradicted by those officers and men, and not the slightest reason has been suggested for a concerted attempt on their part to induce him to implicate Valdez at that time. We are not unaware of the possibility that police officers and soldiers, in an excess of zeal, may and sometimes do maltreat prisoners to induce them to confess or to testify against others. But the testimony of the witnesses called in rebuttal is so definite and convincing in this regard that there is no reason to question or to doubt it, especially as there is nothing in either record which even suggests the possibility that at that time the officers or men of the Constabulary had any possible interest in procuring the arrest and conviction of Valdez. Furthermore, the falsity of these charges made by Gatmaitan against his guards is clearly established by the testimony of Colonel Mair of the Constabulary. That officer, who had no connection whatever with the conduct of the case and no duties which could give him any special interest in the affairs of the locality, visited Cabanatuan in the performance of his duties as commanding officer of the Constabulary of the district. While in Cabanatuan he made a personal investigation of the proceedings which had resulted in the arrest of Gatmaitan and others, and their detention in the Constabulary barracks pending the preliminary trial in the court of the justice of the peace. He says that at that time Gatmaitan made no complaint of mistreatment by his guards, although, like the other prisoners, he had an opportunity to do so if he desired; and that on being told by Colonel Mair that he might have him transferred for detention to Bilibid, he replied that he would prefer to remain in Cabanatuan.

It must be clear that if his Constabulary guards at Cabanatuan were subjecting him to such cruelty and torture as to induce him to confess to his own guilt of a capital offense of which he was innocent, he would not have declined the opportunity to escape from their hands, and to accept a transfer to Bilibid.

At the trial of Valdez, Gatmaitan was fully advised by counsel as to his rights, in open court, and under such conditions that it is difficult if not impossible to believe that his repetition of the story of the commission of the crime, on the witness stand and under the protection of the court, was induced by cruelty or fear of cruelty or maltreatment at the hands of the Constabulary.

At his own trial Gatmaitan attempted to establish an alibi by the testimony of a man named Mamerto Aquino (a cousin of Valdez and Gatmaitan's employer), Aquino's wife and some three or four laborers, who testified that, on the night of the murder, Gatmaitan was present in Aquino's house where a game of monte was in progress. The testimony of none of these witnesses is satisfactory, definite or convincing, and Gatmaitan himself positively

contradicts Aquino in some important details. Gatmaitan swore that he left Aquino's house at 8 o'clock in the evening and that at that time several of the gamblers were still playing. Aquino, who was Gatmaitan's employer, swore that Gatmaitan did not leave the house until after 10 o'clock, and then only to comply with an order regarding some work which he was directed to do. We are satisfied that the evidence relied upon in support of this alibi was fabricated for the purposes of the defense in the Gatmaitan trial, and is wholly unworthy of credence. It would indeed be passing strange, if this evidence were true, that it was not developed at or before the trial of Valdez, Aquino's cousin, which took place before the trial of Gatmaitan, and which must have stirred the interest not merely of the friends and relations of Valdez, but of the whole community.

At the trial of Gatmaitan, as we have already indicated, several witnesses were called in a direct attempt to fix responsibility for the murder upon Candido Garcia, a nephew of the deceased. These witnesses were not called at the trial of Valdez, but we are asked to have in mind the possibility of the guilt of Garcia in adjudicating the merits of both appeals. With the observation, in passing, that the prosecution in the Gatmaitan case submitted what we regard as conclusive evidence of the falsity of the testimony of these witnesses, we postpone consideration of the contentions, as to the possible guilt of Garcia, to its proper place in the general review of the argument of counsel for the defense.

Aside from the repudiation by Gatmaitan of his testimony in the Valdez case; the testimony in support of the alibi set up by Gatmaitan in his own defense; and the evidence seeking to connect Garcia with the commission of the crime, to which reference has just been made; there is no material evidence in the record of the case against Gatmaitan which develops or tends to develop any new facts not disclosed by the evidence in the Valdez case and discussed in the opinion of Judge Paredes above set out at length.

After repeated, exhaustive, and painstaking examinations of all the evidence in both records, a majority of the court is convinced beyond a reasonable doubt of the guilt of both the appellants.

Both of the accused were defended by able and experienced counsel in this court as well as in the court below. Extended oral arguments and briefs, aggregating some hundreds of pages in length, have been submitted in the course of these proceedings, and we are convinced that nothing which could be brought forwarded on behalf of the accused has been neglected, and that we have been compelled by their counsel to consider and pass upon every possible argument which could be advanced in support of a claim of reasonable doubt as to their guilt. We cannot undertake to discuss every contention which has been put forward by the defense throughout the course of these proceedings. That would be impracticable and is unnecessary. It must suffice to say in regard to all the contentions of counsel for the defense not specifically dealt with herein, or conclusively controverted in the briefs filed by the Attorney-General, that they have been maturely considered and ruled upon adversely after due deliberation, and with full recognition of the right of the accused to the benefit of every reasonable doubt.

Counsel for Valdez lay great stress on the fact that the three principal witnesses for the prosecution were selfconfessed accomplices, densely ignorant men, of whom one, Gatmaitan, is a convicted cattle thief, and another, Mateo Arcilla, is a convicted wife murderer, sentenced to life imprisonment for that crime, since he appeared as a witness at the trial of Valdez. This court, however, while holding that the testimony of accomplices, coming as it does from a polluted source, must always be received with caution and subjected to the most painstaking scrutiny, has repeatedly held also that such testimony is competent and admissible; and that, if it appears to be worthy of credence, it is sufficient to sustain a judgment of conviction, even when uncorroborated, but especially when corroborated in important details. (U.S. vs. Ocampo, 5 Phil. Rep., 339; U. S. vs. Butardo, 9 Phil. Rep., 246; U. S. vs. Granados, 16 Phil. Rep., 419; U. S. vs. Callapag, 21 Phil. Rep., 262.) In the cases at bar the testimony of the accomplices is strongly corroborated in many important details by the unimpeached. evidence in the record, and we accept it as true, not because of any inherent probability that these witnesses would tell the

truth when called to testify under oath, but rather because of the inherent impossibility that they could have been testifying falsely when they told their story of the commission of the crime at the trial of Valdez, under conditions which could not have failed to develop its weakness had it been concocted by them or by others for the purpose of implicating him.

Two separate judges saw and heard these witnesses testify at the separate trials in the court below, and notwithstanding the searching and insistent cross-examination to which they were subjected by able counsel, both judges were convinced beyond a reasonable doubt of the truth of their account of the commission of the crime as hereinbefore set out.

Much has been said as to alleged contradictions, inconsistencies and inherent improbabilities in the story of the commission of the crime as given by these witnesses on the various occasions upon which they were called upon to tell what they knew in regard to it. Most if not all of these alleged defects in their testimony have been satisfactorily disposed of in the briefs of the Attorney-General, and we shall not therefore stop to examine them in detail. We may say, however, that, except in so far as the testimony of each of these witnesses discloses an apparent effort to minimize his own guilty participation in the crime, their separate accounts of the various transactions connected with it appear to us to be consistent and convincing to a degree, and to contain only such minor discrepancies as must always be expected in the testimony of witnesses who are endeavoring to give an account of a series of incidents from the recollection of the impression made upon them at the time when they occurred.

Counsel for appellants lay great stress on the fact that when Figueroa was first arrested he did not implicate Valdez in his original statement to the police; but we think that the explanation given by him on the witness stand for his failure to mention the name of Valdez at that time is sufficient, viewing the matter from his standpoint, to account for if not to justify his action in this regard. Valdez had not then been arrested, and Figueroa consulted both his hopes for aid and assistance, and his fears of possible vengeance or abandonment in adopting at that time a policy of silence as to Valdez' connection with the crime. An active factional and political leader, a member of a rich and influential family, Valdez, so long as he was at liberty, was a possible friend and protector to be courted, and a potential enemy to be feared.

What has been said with reference to the original statement made by Figueroa is equally applicable in explanation of the manifest reticence displayed by Gatmaitan and Arcilla in their original statements to the police with reference to the part taken by Valdez in the commission of the crime.

We do not for one moment believe that the admissions and confessions of these informers were the result of a guilty conscience compelling them, when stricken by remorse, to speak the truth. Their confessions made to the police and their testimony given at the trial were all manifestly inspired by the hope that by telling what they knew of the crime they might save their own necks. Throughout the whole proceedings, from the time of their arrest down to the close of the Valdez trial, they evidently believed that they could not hope to conceal the fact that they had some guilty connection with the crime. Ignorant and stupid creatures that they were, they did not, at the outset, tell all they knew, and each of them endeavored, so far as he was able, to minimize his own criminal responsibility for the part taken by him. Even at the trial their testimony was doubtless influenced in some degree by this desire to minimize their own guilty participation in the commission of the crime.

The result of this effort by each of these witnesses to minimize as far as possible his own guilty participation in the crime is made manifest in certain contradictions and inconsistencies in their testimony discussed in the briefs of counsel, especially when read in connection with their admissions and confessions to the police. But, as we have said already, these defects in their testimony are not such as to put in doubt the material facts, testified to by

them, which establish the guilt of Valdez and Gatmaitan beyond a reasonable doubt.

Counsel for the defense attack the case for the prosecution on the ground of the inherent improbability that a man of Valdez' intelligence and position, if he resolved to slay his enemy, would use such tools, and thus expose himself to the risk of betrayal, rather than take the life of his victim with his own hand. To this it may be answered that experience, especially in these Islands, has taught us that many men appear to have the mistaken belief that there is not the same degree of criminality in the commission of crimes of violence through others, as there is in the commission of the same crime with one's own hands; so that they will go to great lengths of inconvenience, expense and even risk to induce others to commit deeds of violence which they hesitate to commit themselves. Our records contain so many instances of the commission of crimes of this character "by inducement" that we are not impressed by the alleged inherent improbability in this regard of the evidence implicating Valdez. And if he once resolved to call on others to do his victim to death, instead of slaying him with his own hand, the criminal record of two of these self-confessed accomplices, and the dependent relation of the third, accounts very well for his choice of tools.

Much is said by counsel as to the failure of the prosecution to establish the existence of any sufficient motive which could have lead Valdez to procure the murder of his fellow townsman.

We have frequently held, however, that, while the prosecution should always prove the existence of a sufficient motive actuating the defendant in a criminal case, if that be possible, nevertheless, a judgment of conviction may be maintained, even in a capital case, without proof as to motive, where the commission by the accused of the acts constituting the crime is proven beyond a reasonable doubt.

In the case at bar, while it is true that the evidence does not definitely establish the existence of a motive which would satisfactorily account for the planning and execution of the murder by Valdez at the precise time when it was committed, there is abundant proof of the existence of a long standing grudge in the heart of Valdez against the deceased, and of a bitter quarrel between them and their respective families. The quarrel seems to have had its origin in differences which arose between Valdez and the deceased, over boundary lines between their property, and in disputes as to water rights in an irrigating ditch running close by. The flow of water had been diverted on several occasions, by one party to the quarrel or the other, and lawsuits were threatened, though the matter seems to have ended in a settlement outside of court and the surrender by Valdez of his claims to the water and land in dispute. But all this occurred some two or three years before the murder, and counsel insist that no sufficient motive for a cold blooded murder is to be found in these petty differences which had been settled long before the crime was committed. It is a matter of common knowledge, however, that disputes between neighbors, over boundary lines and water rights, often engender quarrels out of all proportion to the value of the disputed property, and certain it is that the family feud engendered by the disputes between Valdez and the deceased was so bitter that neither Valdez nor his mother felt called upon to visit the family of the deceased after the murder, nor to attend the funeral, nor have they offered any reasonable explanation of their failure to pay the ordinary courtesies which might well be expected on such an occasion, from neighbors and fellow townsmen in a provincial town in the Philippines.

In addition to the personal grudge entertained against the deceased by Valdez, it would appear that there may have been some additional cause of enmity engendered by the heat of a political campaign, in which Valdez took an active part, just prior to the date of the murder. The evidence discloses that Valdez was an active leader of a political faction opposed to the party which at that time furnished the municipal officers, one of whom was a nephew of the deceased.

We may never know with certainty what was the immediate moving cause which finally induced Valdez to plan

the death of his adversary, although Gatmaitan testified that Valdez said that he wanted him killed on account of the old disputes over boundary and water rights; but there can be no doubt that the personal, social and political relations between the parties were such, that either because of the old grudge or because of some new and unknown cause of offense arising out of these strained relations, Valdez resolved to rid himself, once and for all, of his hated enemy, by having him done to death in the form and manner set forth in the information.

We come now to consider the claim of a reasonable doubt as to the guilt of Valdez based on the alleged possibility that the murder may have been committed by Candido Garcia, a nephew of the deceased, as disclosed by the evidence adduced during the Gatmaitan trial.

This nephew lived with his father, Florentino Garcia, in a house just west of the Yuson residence. Between the two houses was a small nipa shack in which lived a grass cutter employed by Yuson.

Called at the Valdez trial to account for the fact that four shots were fired on the night of the murder, three of these shots in quite rapid succession a short interval after the first shot was heard, this nephew, Candido Garcia, testified that he with his brother Fernando Garcia and several others members of his father's family were talking in their own house when they heard the report of the discharge of a gun in the direction of their uncle's house; that very soon afterwards they heard the voice of their aunt calling to Candido and Fernando for help; that believing that their uncle's house had been attacked by ladrones, and in order to summon the help of the neighbors and the police, he seized the gun and fired it three times from the window, loudly calling for help between each discharge; that things having quieted down, he, with the other members of his family, went over to the house of their uncle and took part in the investigations being made there as to the murder and the incidents leading up to it.

Counsel for the defense suggest that this young man may have been the guilty party who fired the fatal shot underneath the tree at the bottom of the stairs of the Yuson residence, and that he then hurried back to his own home and fired the gun three times from the window of his own home, as a blind.

We are of opinion that the records of both cases abound with conclusive proof not merely that there is no reasonable ground to suspect this young man of the commission of the crime, but that he is absolutely innocent; and we are satisfied that the attempt to turn the finger of suspicion upon him is no more than a desperate effort to raise a doubt as to the guilt of the real criminal, unsupported by any evidence worthy the name, and in direct conflict with all the credible evidence adduced at either trial.

It is hinted that he may have been actuated by a desire to share in the inheritance of his uncle. The deceased was survived by his widow, a natural child, and a number of nephews and nieces. The record does not disclose how many heirs shared in the estate, but it is clear that there were a considerable number. And there is not a particle of evidence in the record tending to disclose any reason why this young man should seek the death of his uncle in order to share in his estate other than the mere fact that he is one of a number of heirs, any one of whom would appear to have had an equal interest in the death of the murdered man.

One witness presented himself at the Gatmaitan trial to say that he heard the deceased reprimand his nephew quite' severely for some alleged misconduct, not long before the murder. But even if the unsatisfactory testimony of this witness were accepted as true, it would require some stretch of the imagination to find in that incident a sufficient motive for the commission of the crime. We do not deny, of course, that deeds of violence have been actuated at times by motives apparently no stronger than those attributed by the defense to the nephew of the murdered man, but we do assert that the fact that he is one of the heirs of the deceased, and the alleged fact that he had been reprimanded by his uncle some weeks before the murder, furnish no ground for suspecting him of the crime, in the absence of other credible evidence as to his guilt.

The transcript of his testimony in both cases indicates that he is a young man of rather more than the average intelligence and good sense, and yet counsel charge him with conduct which could only be accounted for by attributing to him the crassest stupidity or the most childlike simplemindedness. They would have us believe that, having lain in wait for his uncle on a quiet Sunday evening and having shot him in the back, he ran back in the dark across the vacant space between the two houses, and on reaching his father's house fired three shots in rapid succession. To what end? For what conceivable purpose? "As a blind," we are told, and yet no reasonable explanation for such conduct has been offered, nor can it be reasonably conceived how such conduct could serve "as a blind." On the contrary, it could only serve to direct and invite attention to the man who fired these shots, and subject his actions to such inquiry and investigation as no guilty man in his right senses would willingly invite.

On the other hand, the explanation given by the young man of the firing of these shots is altogether reasonable and consistent with the conditions as they must have appeared to him at the time. With his aunt calling upon him and his brother for help, crying out that her husband had been killed by evil-doers (*malhechores*) and *ladrones*, it was no unnatural impulse on his part to discharge his gun several times, before exposing himself to unknown enemies in unknown numbers, in the hope of either driving them off or of calling in the aid of the police. We have read with care the extended examinations and reexaminations to which the young man and his brother were subjected in the court below, and we have been unable to detect the slightest indication of insincerity, evasiveness or reserve in their testimony. The account of what occurred, as given by them, has all the earmarks of truth and, except that there appears to be some difference between the brothers as to which of them first seized the gun from the wall where it hung and loaded it, their testimony is clear and consistent, carrying with it a firm conviction of its truth. As to the apparent contradiction in the testimony of the brothers as to which of them first seized it and took it from its place on the wall, we can only assume that one or other of them had forgotten just what did take place in the confusion and the first excitement of the moment after they heard the shot which killed their uncle and the cries of their aunt for help.

Counsel ridicule the conduct of the young man Candido, Garcia in firing these shots from the window of his house instead of rushing to the aid of his aunt; but, in the darkness, with the knowledge that his uncle had just been killed, with his aunt's outcries indicating that *ladrones* were in the yard separating the two houses, with no knowledge as to the numbers of the evil-doers, and surrounded by his terrified sisters and brothers, it is easy to understand why he failed to follow the course suggested for him by counsel speaking after the event and with full knowledge of the true conditions as they actually existed.

We are confirmed in our belief that there was nothing unreasonable or suspicious in his conduct, under all the circumstances which surrounded him, by the fact that, although his conduct was such as to draw marked attention to him in connection with the tragedy, his explanation seems to have been accepted as reasonable and satisfactory by his towns-men and the officials who investigated the affair, with full knowledge of local conditions and of the relations existing between the parties. Indeed no breath of suspicion seems to have been directed against him, not even by Valdez himself, until after the trial in the Valdez case had terminated, and counsel in their arguments were driven in desperation to look for a ground upon which to rest a claim of "reasonable doubt," in the possibility that the crime might have been committed by some other person than Valdez and his accomplices.

After the conviction of Valdez it must have been apparent that his case was hopeless unless some affirmative evidence could be discovered which would cast suspicion on someone else and thus cast a doubt on the judgment of conviction in his case. Witnesses were not lacking at the trial of Gatmaitan, which took place some time after the Valdez trial, whose testimony, if it could be accepted as the truth, would leave no doubt as to the guilt of young Garcia.

The chief of these witnesses was Agapita Flora whose husband, at the time of Yuson's murder, was employed by him as a grasscutter and lived in the little house in the lot separating the Yuson and Garcia residences. This woman testified, at the Gatmaitan trial, that she was lighting a fire to do some cooking in her house at the moment when she heard the first shot on the night of the murder; that she had just started to go up to the Yuson house to learn what was the matter when she met Candido Garcia carrying his gun; that he tapped her on the shoulder saying "You beware," and then went rapidly on toward his own house. She further testified, on cross-examination, that she had left the service of the Yuson family because the widow would not furnish her husband and herself with enough rice to support them; that since that time she had been in the service of Senora Reyes, the mother of Valdez; that the debts of her husband had been paid, though the testimony does not disclose by whom they were paid; that she had been questioned by no one on the night of the murder; and that she told no one of the meeting with Candido Garcia immediately after the murder until she told the party who had paid her husband's debts.

Garcia testified that the provincial governor held an investigation at the Yuson house between 10 and 12 o'clock on the night of the murder, and that, pointing to the house where this woman lived, he asked who lived there; that on being informed that it was Yuson's grasscutter and his wife, he directed that they be brought before him; that at the request of the widow, Candido himself went for them and found the woman alone in the house, and asleep; that he brought her before the governor who questioned her with regard to the crime; and that she then said that at the time when she heard the first shot she was down at the river, assisting her husband in washing grass.

Candido's testimony in this connection is corroborated by the testimony of the municipal president who was present and took part in the investigation; by the widow; and, in a general way, by the provincial governor himself.

Both the municipal president and the governor testified that they had interrogated the husband of this woman on the following day, and that he had informed them that at the time the first shot was fired he and his wife were at the river washing grass.

We are satisfied that this woman's testimony at the Gatmaitan trial was manufactured out of whole cloth. Aside from the testimony of unimpeached and disinterested witnesses demonstrating its utter unreliability, its absurdity is apparent on its face. If Candido Garcia committed the crime, and was capable thereafter of organizing and maintaining the conspiracy which, it is charged, has for its object the unjust conviction of Valdez of that crime, is it reasonable to believe that this wretched woman, the only direct witness of whom he needed to have any fear, would have been permitted to leave the employ of his aunt and to go into the employ of Valdez' mother, for lack of sufficient rice to support herself and her husband? Is it conceivable that, conscious of his guilt, and of the damning evidence which this woman could give against him, he would never have said a word, or taken any steps, after he passed her on the way from the murder, to secure her silence? Would this woman have kept silent as she claims she did, and, although she knew that her husband's master had been killed by his nephew, allow herself to be driven from the widow's employ? How was her silence secured through all the preliminary proceedings which lead up to the trial of Valdez, and throughout the trial itself? From whatever point of view her testimony is examined, its inherent weakness and its manifest falsity is glaringly apparent.

Pascuala Parungao and Juan Paruñgao, brother and sister, and near neighbors of the Yusons, testified at the Gatmaitan trial that on hearing the first shot they looked out of their respective houses and saw a man running toward the Garcia house. But how was it that this vital testimony was not discovered during the investigation on the night of the murder by the provincial governor and the municipal president, or during the preliminary investigation by the police before the Valdez trial, or in the course of that trial? Why was it only forthcoming at the Gatmaitan trial, when the need for just such corroborative evidence as to the truth of the story told by the perjured old woman became apparent?

Maria Velilla testified that she was in the Yuson residence on the night of the murder and heard the widow say:

"Goodness, he is not buried yet. Are you causing me grief already?"

And this witness further testified as follows:

"I heard their conversation because this occurred and because they killed that person. After this conversation of theirs I left."

The confused and unsatisfactory statements of this witness appear to have been intended to show that on the very night of the murder Yuson's wife and family were aware of Candido's guilt, a charge which is out of the bounds of all reason in view of the history of the whole proceedings as developed in the record.

Another witness at the Gatmaitan trial testified that the widow had offered him P50 to testify that Mateo Arcilla had delivered the shotgun to Valdez, which would tend to show, as the Attorney-General justly observes, that the widow was trying to bribe a witness to testify for the prosecution contrary to the testimony of the other witnesses for the prosecution. Needless to say this testimony was flatly contradicted and denied by the widow herself.

There is nothing in the testimony of all these witnesses which raises any doubt in our minds as to the innocence of Candido Garcia.

But our confident assurance as to the innocence of this young man is not derived merely from the inherent weakness and manifest falsity of the testimony submitted by the defense for the purpose of directing the finger of suspicion toward him. It is based also, and more especially, upon the irreconcilable incompatibility of the contention as to the possibility of his guilt with the undisputed facts developed in the course of the trials of Valdez and Gatmaitan.

In the first place it is very manifest that, if Garcia lay in wait for his uncle and shot him with his father's gun, the story told by Gatmaitan, Figueroa, and Arcilla as to their participation in the commission of the crime is wholly and absolutely false. And yet, whatever may be said as to the probative value of the testimony of these men in so far as it affects Valdez, we think that their testimony, taken by itself, leaves no room for doubt as to the fact that they themselves were guilty participants in the murder. If human testimony can ever be given a conclusive probative value in a criminal case, we think that the records of the two cases under review establish beyond the reasonable possibility of error that Gatmaitan, Figueroa and Arcilla shared in a greater or less degree in the commission of the crime.

But let us assume that we are mistaken in this regard; that Gatmaitan, Figueroa and Arcilla had no part in the commission of the crime; that their testimony at the Valdez trial and their extrajudicial admissions and confessions were false, and the outcome of a conspiracy to convict Valdez; that young Candido Garcia fired the fatal shot, ran back across the lot to his father's house and there fired three more shots "as a blind" and then went to the house of the murdered man and joined in the investigations; and, having made these assumptions in deference to the contentions of counsel for the defense, let us consider some of the conclusions which, in the light of the record before us, must be drawn therefrom.

If Candido Garcia fired the fatal shot, he did so under conditions which would render the discovery of his guilt and his conviction of the crime highly improbable, unless some member of his immediate family should betray him. A considerable time elapsed after the murder before any arrests were made by the police, and, apparently, before any clue leading to their arrest was discovered. And yet we are asked to believe that, not content with escaping suspicion and arrest, he, or someone else acting with him, resolved to procure the arrest and conviction of Valdez, one of the prominent citizens of the town in which he lived, a recognized leader of an active political faction, and a member of one of the richest, most powerful and influential families in the community. That to this

end he procured the arrest of three ignorant men, and induced them, after their arrest, falsely to admit their guilty complicity in the murder and to make sworn confessions in which they not only charged Valdez with having instigated the crime, but admitted in detail a degree of participation in the commission of the crime which might well lead to their execution on the gallows, and certainly exposed them to the risk of imprisonment for life or a long term of years. That he induced them to adhere to the substance of these wholly false and imaginary accounts of their participation in the crime, through thick and thin; and finally to go on the witness stand during the trial of Valdez, and repeat these stories, separately and apart, under fire of the most rigorous cross-examination by able counsel, and after full warning in the presence of the court of the consequences to themselves which might well result from their testimony.

But more than this, after Gatmaitan himself had been brought to trial; after Garcia had gone on the witness stand on behalf of the prosecution; after it was manifest that, if Garcia had employed and induced Gatmaitan falsely to confess, and falsely to implicate Valdez, he had deserted him, and was willing to let him be hanged on his own perjured testimony; and after Gatmaitan had repudiated his testimony at the Valdez trial; counsel for the defense would have us believe that this young man was able to close Gatmaitan's mouth and prevent him from betraying the real murderer who had employed or induced him to testify falsely against Valdez and in doing so to implicate himself. Can it be doubted that, with all the resources at the command of the Valdez family, the skilled attorneys who appeared for Gatmaitan would have found means to develop and to prove the guilty connection of Garcia with the alleged conspiracy to procure false witnesses to testify against Valdez and to implicate Gatmaitan, had it been true that young Garcia or any one else for him had set the conspiracy, on foot, and had Gatmaitan seen fit to betray his employer? But Gatmaitan said not a word, and to this day has said not a word which points, even remotely, to a conspiracy, set on foot by this young man, to produce false testimony at the Valdez trial or to his guilty complicity in the commission of the crime. He contented himself with a confused and incredible story of cruelty inflicted by Captain Crockett, Lieutenant Steffee and other Constabulary officers and soldiers to induce him to confess his guilt and to implicate Valdez, and of pressure brought to bear on him to the same end by his ignorant and besotted fellow prisoners, Arcilla and Figueroa.

With what marvelous power is this young man endowed, to enable him, after deserting and abandoning his ignorant tool, to follow Gatmaitan throughout the course of his trial and even into the cell where he awaits our action on the judgment of conviction entered in the court below, and close his mouth as to his (Garcia's) connection with the crime and the conspiracy to convict Valdez?

The same power to close the mouth of his tools, if they were his tools, must have been exercised in regard to Arcillia under not less extraordinary circumstances. This wretched creature has been convicted and sentenced to life imprisonment for wife murder since the date of the Valdez trial. In this court, a motion for a new trial, which of course must be denied, has been submitted, supported by an affidavit made by Arcilla in his prison cell, in which he retracts most of his testimony given at the Valdez trial, and declares that he was induced to testify falsely by the Constabulary officers and men while under arrest in Cabanatuan. This sworn retraction of his testimony does not in the slightest degree shake our belief in the guilt of Valdez for, as we have said before, we do not rest our conviction of his guilt on the mere probability that any one of the self-confessed accomplices would tell the truth when called to the witness stand, but upon the inherent impossibility that they and the other witnesses for the prosecution could have given the account of the commission of the crime, as they did, without betraying its falsity under the rigid cross-examination to which they were compelled to submit, if it had been false.

But the striking thing in regard to this retraction sworn to by Arcilla, after his conviction and sentence for wife murder, is that he nowhere intimates that young Garcia or any one else connected with him had anything to do with the conspiracy to procure the false testimony at the trial of Valdez. Is it possible that, under all the

circumstances, Gatmaitan and Arcilla would still keep silent as to the true instigators of the conspiracy, if indeed their testimony was given in pursuance of such a conspiracy?

It may be suggested that perhaps these two knew nothing of the party or parties who organized the conspiracy, and that they told the truth when they said that they had been forced to testify as they did by the Constabulary officers and men. But this explanation leads to even more improbable and incredible conclusions than that of their self-enforced silence under such extraordinary circumstances. If it were well founded, we would have to believe that, in addition to a number of other impossible feats performed by young Garcia which we shall refer to hereafter, he actually induced two American Constabulary officers and a number of their men to join him in a deliberate attempt to procure his escape from the consequences of his crime, and by force, threats and cruelty to induce three wholly innocent men to convict themselves as well as Valdez by the repetition of a carefully prepared tissue of lies on the witness stand with that end in view.

But the absolute conviction that the account given by the accomplices of the commission of the crime was not a pure invention, put in their mouths by Garcia, or some one else for him, does not rest merely on the inherent improbability that he could have induced them to tell such a story and keep quiet as to his connection with the conspiracy to destroy Valdez. We are firmly convinced that it was an absolute impossibility that he, or any one else, could have invented the story told by these witnesses, and corroborated by other witnesses, and after having invented it, that he could have instructed and prepared the ignorant men who told it in open court, so that they would not have involved themselves in hopeless contradictions under the cross-examination of able counsel to which they were compelled to submit.

He would have been compelled, in the first place, to have worked out an imaginary plot for the assassination of his uncle, involving these three men and Valdez as actors. The construction of this plot necessitated a precise knowledge of the movements of Valdez, of his brother-in-law Amante, and of one or two other persons connected with the tragedy during the forty-eight hours preceding the crime. It involved a relation by imaginary participants in a series of incidents connected with the borrowing of the gun with which the crime was committed, and the bringing together and location of the various parties to the imaginary drama, to which only a genius could have given an appearance of verisimilitude, even had there been no rigid cross-examination to be undergone by the relators of the story, and had the truth of their statements not been subject to criticism and attack by the production of evidence demonstrating its falsity in any material detail. He would have been compelled not merely to induce the three self-confessed accomplices falsely to incriminate themselves, but to induce three other witnesses to appear and testify falsely in corroboration of vital portions of the stories told by the principal witnesses. And it was necessary to have the six witnesses whose evidence tended directly to implicate Valdez tell the story, prepared for them, so as not to conflict with the testimony of the different witnesses who were called for the purpose of establishing other material facts in relation to the crime charged in the information filed at the trial of Valdez; and so as not to conflict with any material fact which the accused, with all his influence and resources, might be able to establish for the purpose of raising a doubt as to their credibility.

The witnesses who were relied upon to tell this carefully concocted story in open court were all densely ignorant men, only one of whom could, with difficulty, read and write. As the trial judge indicates in his opinion, they were all men of the most limited instruction and of a notably low order of intelligence; men who by no possibility could have kept in mind the multitude of details, developed in their testimony, as a mere feat of memory; and who could by no possibility have been prepared to meet successfully the unexpected demands for further and unassisted invention involved in their answers under the rigid cross-examination to which they were subjected.

And yet, the utmost skill of counsel has been unable to discover or develop any material contradiction or inconsistency in their testimony, which tends to put in doubt the substantial truth of the story of the commission of

the crime, as told by them in the Constabulary barracks and in open court, which has not been satisfactorily explained and accounted for in the able brief submitted by the Attorney-General. True, counsel point to certain discrepancies in their statements, and insist that these discrepancies destroy the credibility of their testimony. But, as we have already indicated, these very discrepancies tend rather to prove that their account of the commission of the crime is not a purely imaginary one invented for the purpose of removing suspicion from Garcia and directing it toward Valdez.

As we have said, most of the discrepancies and inconsistencies in the statements of the self-confessed accomplices are manifestly the result of the natural attempt of each of them to minimize his own guilty participation in the crime. Is it conceivable, if the story of the crime as told by them was a pure invention, prepared for them by some third person, that they could have been taught to shade their testimony so perfectly, by adding just such inconsistencies and discrepancies as might be expected from accomplices trying to tell just enough of the truth to save their own necks? And we may add that an extended analysis of their evidence develops many other delicate shadings indicative of its truth, which it is utterly inconceivable that such ignorant men would have been capable of divining, much less reproducing, in the course of a hotly contested trial in a court of law.

We are not unaware or forgetful of the fact that ignorant and seemingly stupid men have oftentimes succeeded in giving false testimony in such a way as to deceive the most experienced and astute judges; but, under all the circumstances of this case, we are convinced that it was absolutely impossible for these witnesses to have testified as they did, had their testimony been prepared for them beforehand, in order to shield Garcia, and falsely to convict Valdez, without the falsity of their testimony having been developed by able counsel backed by all the resources and local interests which Valdez could call to his aid and support.

Our confident refusal to base a reasonable doubt as to the guilt of Valdez and Gatmaitan upon the suggestion that the crime may have been committed by Garcia, and that the evidence for the prosecution in both the Valdez and Gatmaitan cases was procured by him for the purpose of turning suspicion in another direction, is further confirmed by a consideration of the practical impossibility that he could have induced all those witnesses to enter into such a conspiracy, and that, had he done so, some trustworthy evidence would not have developed in the course of one or other of the trials in the court below to overthrow it.

The evidence discloses that Arcilla was a direct dependent of the Valdez family, as also was his sister who testified as to the incriminating messages sent by Valdez to her brother after his arrest; that Gatmaitan was in the employ of a cousin of Valdez; and that Robaya, who testified as to the letter sent by Valdez to his brother-in-law on the night before the commission of the crime, worked on the estate of the Valdez family. How did young Garcia secure their consent to join in the conspiracy against Valdez, and how has he retained their loyalty and secured their silence ever since?

There is no evidence, and indeed there is not even a suggestion in the record that any one of these witnesses had any grievance against Valdez or against any member of his family. Had any one of them entertained any feeling of vengeance toward him, which might have led him willingly to testify falsely against Valdez, the cause for such ill feeling could hardly have remained undisclosed in the record of the two cases before us. And had any or all of them been in such relations with young Garcia or the Garcia family as to justify an inference that they might readily have been induced to join him in a conspiracy against Valdez, that fact also could not have remained a secret, with all the channels of information as to the existence of such relations at the disposal of the Valdez family. We must conclude, therefore, that if these witnesses testified falsely, they were bought with a price, and, under all the circumstances, it is beyond belief that that fact, and the name of the buyer would not have developed during the course of these proceedings. Furthermore, the evidence offered by the defense for the purpose of implicating Garcia carries with it the manifest suggestion that the widow of the murdered man knew that young

Garcia was her husband's slayer: and it is clear from all the evidence that if he fired the fatal shot his brother and sisters, nephews and nieces of the deceased, and indeed all the members of his immediate family were aware of his guilt from the beginning.

Is it conceivable that this young man could have procured the successful cooperation of all these persons in an attempt to relieve himself of suspicion by directing the accusation against Valdez?

Their silence, perhaps he might have counted upon, but it must be remembered that the widow and his brother testified at the trial, and a conspiracy to convict Valdez, if it existed, necessarily involved the instruction of all these possible witnesses so that their testimony, if they should be called to the witness stand, would serve the common end.

To all these persons whom it was necessary for young Garcia to suborn and instruct, if it be true that he fired the fatal shot, and is responsible for the conspiracy to convict Valdez, we must add the American officers of Constabulary and their men at the Cabanatuan barracks, where Gatmaitan, Arcilla and Figueroa were confined. For aside from the direct evidence of Gatmaitan in regard to their alleged use of force, cruelty and threats to make him confess and implicate Valdez, it is clear from all the record that, without the consent and active cooperation of these Constabulary officers, the three ignorant men could not well have been instructed to give the account of the commission of the crime in the manner and form in which it appears in their confessions and affidavits made while in arrest, and to adhere to it afterwards upon the witness stand.

We conclude that, from whatever angle the evidence of record be examined, it strongly tends to establish the innocence of this young man, and that, examining the record as a whole, it is inherently impossible that the crime could have been committed by him, and the testimony for the prosecution suborned for the purpose of relieving him of the suspicion of guilt by directing it towards Valdez.

That the crime was no ordinary one, with robbery, or some similar motive for its object, is beyond question. That neither Gatmaitan, Arcilla, nor Figueroa had any personal motive for the taking of the life of the deceased is equally apparent. And it is equally apparent that they had no motive of personal vengeance or the like in falsely confessing their guilt and falsely charging Valdez with having induced them to become participants. Their intervention in the tragedy, either as guilty participants or as false witnesses, was manifestly bought with a price. Were they guilty participants or false witnesses? We answer, confidently relying upon the evidence of record, that they spoke the truth on the witness stand, and that they were guilty participants with the man who bought their services. Who paid the price? We answer with equal confidence, and without any reasonable doubt, not Garcia but the defendant and appellant, Valdez.

A motion for a new trial, which must be denied, is pending before this court on the ground that an inspection of the vicinity where the murder was committed was made by the trial judge, in the absence of the defendant Valdez, who was at the time in the provincial jail. The record clearly discloses that this inspection was made with the consent of counsel for Valdez, and that the trial judge was accompanied to the place where the murder was committed by counsel for both the prosecution and the defense.

Some attempt is made in the affidavits accompanying this motion to show that the trial judge took evidence in the course of this visit of inspection, and that there was an attempt made by some of the bystanders to influence his judgment and his feelings against the accused. A careful examination of these affidavits and the counter-affidavits filed by the appellee satisfies us that nothing more than inspection of the scene of the murder was made by the trial judge, and that no evidence whatever was taken on that occasion; and we are of opinion that under all the circumstances there was no violation of the constitutional right of the prisoner to be confronted with the witnesses. (*People vs. Thorn*, 156 N. Y., 286; 42 L. R. A., 368, and the cases cited in the extended note in the

annotated report.)

Perhaps we should add that, if any of the bystanders did in fact do or say anything which had for its object the influencing of the mind or feelings of the trial judge, the permission of such apparently unanticipated, unauthorized and perhaps unavoidable intervention by these bystanders was at most, error without prejudice, and has had no influence one way or the other in the final disposition of the pending proceedings.

We conclude that the findings of the trial court as to the guilt of both these appellants, Valdez and Gatmaitan, are sustained by the evidence of record beyond a reasonable doubt; and we find no error in either of the records, brought here on appeal, prejudicial to the rights of the accused.

We are of opinion however that, under all the circumstances of the case, the appellant Gatmaitan is not entitled to have his ignorance and lack of instruction taken into consideration as an extenuating circumstance, so as to reduce the degree of the penalty which should be imposed, and that the trial judge erred in so doing.

The judgment entered in case No. 8185, convicting and sentencing to death the defendant and appellant Valdez, should therefore be affirmed, with the costs of this instance against him; and the judgment entered in case No. 9021, convicting and sentencing the defendant and appellant Gatmaitan, should be modified by striking out therefrom so much thereof as imposes life imprisonment with the subsidiary penalties prescribed by law, and substituting therefor the penalty of death, which we are of opinion should be imposed upon him, and thus modified the judgment entered in the court below should be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres and Araullo, JJ., concur.

MORELAND, J., dissenting:

I dissent. I think that the leant that the accused is entitled to under the facts and the law is a new trial. I believe, however, that he is entitled to an acquittal on the facts as presented.

TRENT, J., dissenting:

I dissent on the ground that, in my opinion, the prosecution was unable to prove the guilt of the appellants with reference to the crime for which they were sentenced.

Judgment affirmed in case No. 8185.

Judgment modified and death penalty imposed in case No. 9021

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