

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALD ALVAREZ Y CRUZ, LEOPOLDO SABERON Y CALUBAQUIB, CHRISTOPHER ARANETA @ TOPPER, ACCUSED-APPELLANTS.

G.R. No. 88451. September 05, 1991

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

With all three accused, namely, Ronald ALVAREZ, alias "Onie," Leopoldo SABERON, alias "Oyet," and Christopher ARANETA, alias "Topper," convicted of Murder[1] for the death of Ismael Magpantay, and sentenced to "life imprisonment three (3) times each," they have filed before us their separate appeals.

The facts disclose that at about 6:30 A.M. on 13 June 1984, the Valenzuela police station received a phone call from an unidentified caller that a dead man was found inside the Palasan Cemetery, Palasan, Valenzuela, Metro Manila. The police proceeded to the place immediately and found "a lifeless body of a male person lying on his belly with multiple stab wounds all over his body." Only a brown-colored wallet was found on his person with no other identification papers. The cadaver was then photographed and taken to the NBI, through Funeraria Popular, for autopsy.

According to the report of Pfc. Rolando Masanque, a Valenzuela police officer, in the early morning of 13 June 1984, a "grapevine source who refused to identify himself" called up P/Lt Carlos A. Tiquia by phone and disclosed that the victim was killed by three men, namely, "Onie" Alvarez, a former resident of Bgy. Palasan, Valenzuela, one alias "Oyet," and another alias "Topper." Following the lead, Lt. Tiquia asked Alfonso Alvarez, a former Valenzuela policeman and father of Appellant ALVAREZ, to go to the station to shed light on the investigation. The father was an old friend of Lt. Tiquia. After their talk, forthrightly, Lt. Tiquia created a team to apprehend the three Appellants.

At about 12:30 A.M. of 14 June 1984, the arrest was effected, without a warrant, at the Alvarez residence in Tangali St., Bo. Manresa, Quezon City. Only ALVAREZ alias "Onie," and SABERON alias "Boyot" were apprehended, as "Topper" (ARANETA) was not around. A fan knife (Exh. C) was recovered from the person of ALVAREZ, while a bamboo stick (Exh. D), identified as a scabbard of an icepick, was discovered in front of the residence (Tsn., 25 June 1986, p. 7).

ALVAREZ and SABERON were taken to the police station for investigation that same morning. In the course thereof, ALVAREZ, assisted by Atty. Reynaldo P. Garcia, executed a sworn confession, which he signed in the presence of his father and another lawyer, Atty. Antonio Dalag. Atty. Garcia signed as "Saksi at gabay sa panahon ng pagsisiyasat" (Exhs. 5 - 12), while Atty. Dalag and Alfonso Alvarez, the father, separately signed as "Saksi" (Exhs. B-13 and 1-D). ALVAREZ signed his Sworn Statement twice at the end thereof, once before the Investigating Officer and the second time, on 15 June 1984, before Fiscal Victoria F. Bernardo, who had administered the oath (Exh. B-10). ALVAREZ's signature further appears twice on the left hand margin of pages 1, 2 and 3 of his Statement. Others present during the investigation were SABERON, Lt. Tiquia, and ALVAREZ's

brother.

In said extrajudicial confession, ALVAREZ disclosed:

"16. T:

Papaano ba naganap ang pangyayaring pagpatay kay ISMAEL?

S:

Ganito po iyon, dahilang sa ito pong si ISMAEL ay nangholdap sa Blumentritt, Manila na kung saan ay nakuhanan niya ang biktimgang babae ng alahas, at pitaka at sa dahilang parang niloloko kami ni ISMAEL sa partihan ay ipinasiya ni CHRISTOPHER na patayin si ISMAEL. Itong si RODOLFO SABERON JR., na kabarkada din namin ay isinama namin sa Palasan, Valenzuela, Metro Manila. Umalis kami sa Quezon City ng alas 9:00 ng gabi, ika-12 ng Hunyo 1984 nina ISMAEL, Ako, RODOLFO SABERON JR., at CHRISTOPHER ARANETA. Dumating kami sa Palasan, Valenzuela, MM ng humigit kumulang gawing alas 10:00 ng gabi, ika-12 ng Hunyo 1984. Doon sa may sementeryo ng Palasan, Valenzuela, MM ng makatalikod si ISMAEL ay bigla na lang siyang sinakal mula sa likod ni RODOLFO SABERON JR., Alias BOYET at itong si CHRISTOPHER ARANETA naman ay pinagsasaksak si ISMAEL hanggang sa mabali ang panaksak ni CHRISTOPHER at kinuha ni CHRISTOPHER ang hawak kong patalim, at ipinagpatuloy ang pananaksak kay ISMAEL, si RODOLFO SABERON JR., Alias BOYET ay pinagsasaksak din si ISMAEL. Nang makita ko na pinagsasaksak nina CHRISTOPHER at BOYET si ISMAEL ay umalis na ako, nagkita-kita na lang kaming tatlo sa Quezon City sa bahay nina CHRISTOPHER sa bahay ng kapatid ng kanyang Nanay. Isinauli sa akin ni CHRISTOPHER ang aking patalim, matapos na iyon ay kanyang hugasan para maalis ang dugo. Tapos ay naginuman na kami. Kinabukasan, ika-13 ng Hunyo 1984 doon sa aming bahay ay dumating ang tatay ni ISMAEL at tinanong ng Tatay ni ISMAEL ang kanyang anak kina CHRISTOPHER at BOYET, pero sinabi nina CHRISTOPHER at BOYET sa Tatay ni ISMAEL na hindi nila alam kung nasaan si ISMAEL. Noong gabi ng ika-13 ng Hunyo 1984 ay hinuli na lang ako ng mga Pulis at nahuli ko ding kasama si RODOLFO SABERON JR., Alias BOYET at isinama na kami dito sa Valenzuela, Metro Manila." (Exh. 1).

In the same confession, ALVAREZ identified the slim bamboo found in his house as the "baena" of the ice-pick belonging to SABERON.

"26. T:

Anong uring ice-pick ba naman ang dala nitong si CHRISTOPHER?

S:

Iyon po ay isang turnilyong inilalagay sa trak na mahaba at pinatulis at iyon ay ipinapasok sa isang payat na kawayan.

"27. T:

Ipinakikita ko sa iyo ang isang kawayan na payat, ano ang masasabi mo tungkol dito?

S:

Iyan po ang pinaka-baena ng kanyang (Christopher) ice-pick (At this juncture declarant identified a slim

bamboo stalk approximately 18 inches long). (Exh. 1-B)

As to his participation, ALVAREZ claimed:

"36. T:

Pansamantala ay wala na akong itatanong sa iyo, mayroon ka pa bang nais sabihin, idagdag o kaya ay bawasin sa salaysay na ito?

S:

Wala na po, kundi kaya lamang ako nagbigay ng salaysay ay sa dahilang gusto ko pong patunayan na wala akong kasalanan at malinis ang aking konsiyensa sa naganap na pagpatay kay ISMAEL." (Exh. 1-C)

ARANETA, who turned out to be "Topper", was arrested on 14 June 1984 by the District Anti-Narcotics Command and turned over to the Valenzuela police.

In no time at all, or on 15 June 1984, an Information charging all three Appellants with Murder was filed. Having pleaded their innocence upon arraignment, trial ensued. SABERON bolted jail and was re-arrested only after the defense had rested its case. He was represented throughout the proceedings, however, by counsel.

The respective fathers of the victim and of ALVAREZ, who were good friends, had their roles to play.

Rosauro Magpantay, the victim's father, recounted that he knew ALVAREZ since 1984, as well as ARANETA, who used to go to his house before his son was killed; that he also knew SABERON when the latter pawned his watch to their neighbor; he knew that his son and Appellants were "barkada;" that at around 12:00 noon of 12 June 1984, he saw his son and the three (3) Appellants together; when asked where he was going, the son replied that they were going to Valenzuela (Exh. J); that at around 12:00 o'clock midnight of 13 June 1984, because his son had not gone home, he went to ALVAREZ's house to inquire about his son knowing that the latter and the three (3) Appellants had gone to Valenzuela around noon the previous day. In the ALVAREZ residence, he found the three Appellants drinking. Upon seeing him, ALVAREZ shouted: "Anong ginagawa ng putang-inang matandang iyan dito, tayo pa ang pinagbibintangang pumatay sa anak niya" SABERON pacified ALVAREZ stating: "Pare, nadudulas ka na" (Tsn., 23 October 1987, p. 11). Then, replying to the victim's father, SABERON stated that they were together in Valenzuela; that they had boarded a jeep when the victim robbed a woman passenger of her necklace, after which they ran away leaving the victim and hoping that nothing untoward had happened to him. Apprehensive that some misfortune had actually befallen his son, Rosauro Magpantay went home.

Continuing, Rosauro narrated that at around 2:00 o'clock A.M. of 14 June 1984, ALVAREZ's father, Alfonso, who was his good friend, fetched him and together they proceeded to Valenzuela. Alfonso wanted him to verify if the man that was killed was his son. When told that the body was at Funeraria Popular, they proceeded thereto and Rosauro confirmed that the dead man was, in fact, his son Ismael. Rosauro and Alfonso then proceeded to the police station where Alfonso told Rosauro that he had the two persons who had killed his son arrested (ibid., p. 12). The two persons referred to were his son ALVAREZ and SABERON.

ALVAREZ's father, Alfonso, who used to be a Valenzuela policeman, had his own version. He stated that ARANETA and SABERON were friends of his son; that the victim's father is his childhood friend; that on 12 June, while he was at home at around 8:00 P.M. the victim and the three (3) Appellants were also there; that because his son was hooked on drugs, he left the house with some members of the family and stayed at the Premier Hotel; his son ALVAREZ was left behind and did not seem his usual self; that when he (the father)

returned home on 13 June at around 9:00 A.M., he saw the three (3) Appellants "Ronald, Christopher and Saberon" conversing; that around 10:00 A.M., the victim's father arrived inquiring about his son; that he replied he did not know and when the victim's father addressed the Appellants, the latter also denied any knowledge; the victim's father then left; that in the afternoon, noticing that the three (3) Appellants were having a heated conversation and seemed to be high on drugs, he went to the police precinct at about 10:00 P.M. to ask for help from Capt. Tiquia, a friend of his; that he asked the latter to incarcerate the boys because they were hooked on drugs; that the Captain initially denied his request for lack of basis; that while they were conversing Capt. Tiquia informed him that an unidentified dead person was found in the Palasan, Valenzuela cemetery and since he was a former resident thereat, perhaps he could help in identification; the dead individual was described as a "person with tattoos;" that the father called his son at the house and asked for the possible identification of "El Magpantay," the son answered that the latter had a "bahala na tattoo" on his body; that he then suggested to Capt. Tiquia that Appellants be charged with the victim's death, since the description of the dead person fitted that of the victim; to which said officer acceded with a warning that he might be sorry for the consequences of the request; that his intention was to help and to avoid the circumstance that they (apparently referring to the boys) might be killed or might kill somebody; that he then went home and waited for the boys to fall asleep; then he went to the police station, fetched the police, who then arrested ALVAREZ and SABERON from his residence at around midnight. At the time, ARANETA had already left the house. After ALVAREZ and SABERON were jailed, he went to the victim's father to ask him to identify the man who was found dead. That done, they returned to the precinct. He then told the elder Magpantay that he caused the incarceration of ALVAREZ and SABERON just to punish them and not because they were responsible for the victim's death. Thereafter, he and Capt. Tiquia talked about the preparation of the statement but the former told him to return the following morning so that two (2) lawyers could be present. At around 9:00 A.M. of 14 June, he forced his son, ALVAREZ, to give a written statement but it was he (the father) who fabricated the story given (Tsn., 2 March 1988, pp. 1-7).

On the second day of his testimony, Alfonso stated that at around 8:00 P.M. of 11 June 1984 he saw the "barkada," that is, the victim and the three (3) Appellants together at his house; that because there was trouble in their place, he brought them to the Premier Hotel to prevent their involvement, until the next day when they checked out after he had signed the hotel bill; that he did not know where their son was going but at about 5:00 P.M. of 12 June, he saw his son alone in the house without his friends and that it seemed he was high on drugs again; since he would not listen to scolding he and family left the house at around 9:00 P.M. to return to his house only on 13 June where he saw the three (3) Appellants, with other people.

Lastly, ALVAREZ'S father admitted that he had signed his son's extrajudicial statement but explained that although previously he had wanted his son in jail that was not his wish any longer. His son had been incarcerated for four (4) years and had promised not to take drugs any more, because of which he had forgiven his son.

The post-mortem findings of the Medico-Legal Officer of the NBI revealed that the victim had been brutally attacked and killed; that he suffered two (2) incised wounds in the forearm; four (4) stab wounds on the left side of the neck; thirteen (13) wounds in the chest, four (4) of which are punctured wounds caused by an ice pick; and twenty-one (21) stab wounds in the back caused by a single bladed weapon and inflicted when the victim was already helpless or dying. Said physician further declared that there was more than one assailant and that a double-bladed and a single-bladed weapon had both been used in addition to an ice pick.

On the part of the defense, ALVAREZ, 26, single, a soundman, testified that he could not remember his "Sinumpaang Salaysay;" that he had signed something without knowing its contents; that although he admits his signatures, the contents of his statement are not true and he does not affirm them; that although lawyers were present, they were given by the police; that although he was brought before the Investigating Fiscal, he does not

remember that the Fiscal had explained anything to him; that he was compelled to sign by the police; and that he never complained to the Fiscal because he was confused and bewildered as to why he had been taken there.

ARANETA, 26, laborer, a house painter, gave an alibi as his defense and declared that the charge of Murder against him is false; that he was not in the house of ALVAREZ when the victim's father went there because he was then finishing the painting job of Jesse Reyes, about six (6) houses away from ALVAREZ's; that he had known the victim since school days since their respective schools were near each other; that he knows ALVAREZ and SABERON as they play basketball together; that he also knows the victim's father who forbade him from going to their house as he was just teaching the son "katarantaduhan."

ARANETA's mother corroborated her son's alibi.

As heretofore stated, SABERON escaped from jail while trial was in progress and was re-arrested only after the defense had rested its case. He was accordingly unable to take the witness stand. However, he was represented by Atty. Melody Javier during the initial stages of the case and, thereafter, alternately by Attys. Augusto Montilla and Ricardo Perez. An Appellant's Brief has also been presented on his behalf by Atty. Augusto Montilla.

Mainly premised on ALVAREZ's extrajudicial confession, the Trial Court found a clear indication of conspiracy and convicted Appellants of Murder, attended by treachery, evident premeditation, abuse of superior strength and nocturnity. Before us now are their respective appeals, to refute which the Solicitor General has also filed separate Briefs.

Allegedly, the Trial Court erred

Per ALVAREZ:

" x x x in admitting and considering the extrajudicial confession;

" x x x in holding the presence or existence of conspiracy;

" x x x in sentencing accused to suffer life imprisonment (3 times each)."

Per ARANETA:

" x x x in convicting (him) on the sole basis of the extrajudicial confession of co-accused Ronald Alvarez;

x x x in not declaring the extrajudicial confession of accused Alvarez inadmissible;

" x x x in not giving credence to (his) defense of alibi."

Per SABERON:

"x x x in not taking into consideration that there was no motive by accused Saberon to kill the victim, Ismael Magpantay;

" x x x in finding that the escape of accused Leopoldo Saberon from jail indicates his guilt;

" x x x in convicting accused Leopoldo Saberon when in its decision appear facts that will lead to his acquittal."

Crucial to the determination of Appellants' culpability is ALVAREZ's extrajudicial confession.

With the exception of SABERON, who admitted that the confession was "executed legally and properly" (p. 6, Brief for SABERON), ALVAREZ and ARANETA assail the admission of said confession as evidence against them for having been executed irregularly and involuntarily. For one, they maintain that ALVAREZ's constitutional right to counsel was not protected, a lawyer randomly picked by the police not being a sufficient

safeguard thereof. For another, they claim that ALVAREZ was in a drunken and drugged state when he executed it such that he was in no position to either read or comprehend the same, much less provide the details contained therein. That being so, the elder Alvarez's testimony that he had invented the story and thereafter forced his son to sign the document "in order to give him a lesson" should have been given credence and weight by the Trial Court and the extrajudicial confession struck down as inadmissible evidence.

The averments do not persuade. While it may be that a lawyer was provided by the police, ALVAREZ never signified his desire to have a lawyer of his choice. Besides, the evidence discloses that Atty. Reynaldo P. Garcia, whom the police had called, was equal to his duties as a lawyer. He testified that he was requested by Capt. Tiquia, a friend of ALVAREZ's father, to assist his son in the execution of his extrajudicial confession (Tsn., 12 December 1986). After asking the investigator to leave them alone, he explained to ALVAREZ the consequences of any statement that he would make and that it could be used against him but that notwithstanding, ALVAREZ decided to give it just the same. Aside from Atty. Garcia, Atty. Antonio Dalag, whom ALVAREZ knew, was also on hand and signed as a witness to the confession. So did ALVAREZ's father. Two others presenced the execution of the statement, SABERON and ALVAREZ's brother. Under the circumstances, the Trial Court can not be faulted for holding that the confession was "freely given, without force or intimidation, and with aid of counsel."

What is sought to be protected is the compulsory disclosure of incriminating facts. The right is guaranteed merely to preclude the slightest coercion as would lead the accused to admit something false (*People v. Layuco*, G.R. No. 69210, 5 July 1989, 175 SCRA 47), not to provide him with the best defense. A lawyer is an officer of the Court and upon his shoulders lies the responsibility to see to it that protection has been accorded the rights of the accused and that no injustice to him has been committed. Absent any showing that the lawyers who assisted ALVAREZ were remiss in their duties, the Court holds that the proceedings during the custodial interrogation of ALVAREZ, in the presence of counsel, were regularly conducted.

The father's disclosure of having masterminded his son's confession is a futile and late attempt on the part of a parent to exonerate a child from criminal responsibility. The confession speaks for itself. It gives the motive for the killing, the manner by which it was accomplished, the kinds of weapon used, the relative positions of the assailants and the victim, the exact location of the crime, the clothes the assailants were wearing, the weather condition that fateful evening — all of which are particulars that could have been supplied only by someone in the know. They reflect spontaneity and coherence, leaving no room to doubt its veracity, and particularly belying the elder Alvarez's claim that it was he who had concocted the story.

The assertion that ALVAREZ was in a drugged and drunken state and was in no position to provide details nor read and comprehend his Statement is shorn of merit. A comparison of his signatures on the left-hand margin of the first three pages of his written confession, as well as his two signatures on the last page thereof, once during custodial interrogation and the other before the subscribing Fiscal, shows that they are identical to the other, with no tremors or unsteadiness which would have characterized the handwriting of one under the influence of either liquor or drugs. Besides, a confession made by an accused while intoxicated is admissible, if he was physically able to recollect the facts and to state them truly (*White v. State*, Tex. Cr. App. 625, 25 S.W. 784; *People v. Farrington*, 140 Cal., 656, 74 Pac. 288; cited in 5 Moran, *Comments on the Rules of Court*, 1963 Edition, p. 250), as is the case with ALVAREZ's confession.

More, the details contained in the confession relative to the knives and the icepick used by the assailants and the relative positions of the actors conform to the testimony (Tsn., 13 October 1986) and autopsy report (Exh. G) of the medico-legal officer. The weapons described in the statement were the same ones recovered on the person of ALVAREZ and picked up in front of his residence at the time of arrest. To top it all, the confession contains

exculpatory statements, which have been considered by this Court as an index of voluntariness (People v. Balane, G.R. Nos. 48319-20, 25 July 1983, 123 SCRA 614).

It should be borne in mind that a confession constitutes evidence of high order because it is supported by the strong presumption that no person of normal mind would deliberately and knowingly confess to a crime unless he is prompted by truth and his conscience (People v. Salvador y Kiamco, G.R. No. 77964, 26 July 1988, 163 SCRA 574). This presumption of spontaneity and voluntariness stands unless the defense proves otherwise. Appellants' evidence falls short of the required quantum of proof to overcome the presumption.

ARANETA contends, however, that said confession is not admissible as specie of proof against him because firstly, the same is hearsay as he never had any opportunity to cross-examine the confessant; and secondly, it lacks the indispensable requisite of corroboration by other evidence (Brief for ARANETA, pp. 8 & 9). He further states that the Trial Court erred in convicting him based solely on ALVAREZ's confession.

The contentions are not tenable. ARANETA was represented by counsel all throughout the trial, who could have taken all steps necessary for his protection. As to the second ground, the established doctrine is, indeed, that an extrajudicial confession is binding only upon the confessant and is not admissible against his co-accused. That rule, however, admits of exceptions. Where the confession is used as circumstantial evidence to show the probability of participation by the co-conspirator, that confession is receivable as evidence against a co-accused (People v. Condemena, G.R. No. 22426, 29 May 1968, 23 SCRA 910; People v. Vasquez, G.R. No. 54117, 27 April 1982, 113 SCRA 772).

The corroboration by other evidence is disclosed by the records, which show that Appellants and the victim were close friends (Tsn., 2 March 1988), or "barkada" (Tsn., 14 March 1988, p. 5); that he usually plays basketball with ALVAREZ and SABERON on Sundays (Tsn., 15 February 1988, pp. 12-13); that all three Appellants and the victim were together in the Alvarez residence in the evening of 11 June (Tsn., 14 March 1988, p. 5), or the night immediately before the incident on 12 June at around midnight; that the victim was last seen together with Appellants about to go to Valenzuela (Exh. J); the victim's father knew of his own personal knowledge that the group was going to Valenzuela, so much so, that when his son failed to return home, he went to the Alvarez residence immediately the next evening to inquire and saw thereat all three Appellants drinking; upon seeing him ALVAREZ reacted with an outburst, "anong ginagawa ng putang-inang matandang iyan dito, tayo pa ang pinagbibintangang pumatay sa anak niya," actually an admission against interest, only to be cautioned by SABERON stating "Pare, "nadudulas ka na." ARANETA was there (as separately testified to by the two fathers) and said nothing. Additionally, a knife was also recovered from the person of ALVAREZ, and a bamboo scabbard of an ice pick found in front of his house.

All these corroborate the extrajudicial confession and prove that ARANETA was, indeed, one of the malefactors. His defense of alibi can not prevail over such convincing evidence.

With respect to SABERON, the confession is admissible against him for two reasons. Firstly, he did not dispute its admissibility and even admitted its proper execution (Brief for SABERON, p. 13). Secondly, he acquiesced in or adopted the confession since he did not question its truthfulness considering that it was made in his presence and he did not remonstrate against his being implicated therein (People v. Amajul, G.R. Nos. 14626-27, 28 February 1961, 1 SCRA 682), even when ALVAREZ pointed to him. There is, therefore, direct evidence to prove his participation in the commission of the crime, and the requirement of motive for conviction by circumstantial evidence needs no looking into.

SABERON, however, further disputes the Trial Court's finding that his escape from jail was an indication of guilt. He alleges that the lower Court should have given him the opportunity to present his side of the charge and

explain the reason for his escape instead of haphazardly convicting him even after he was re-arrested.

Even assuming that his escape was not an indication of guilt, once an accused escapes from prison or confinement, he loses his standing in Court and is deemed to have waived any right to seek relief from the Court unless he surrenders or submits to the jurisdiction of the Court (*People v. Mapalao and Magumnang*, G.R. No. 92415, 14 May 1991; see Rule 115, Sec. 1[c]). The records neither disclose that SABERON moved for the re-opening of the case when he was re-arrested, hence, he should now be held barred from seeking the same. The Trial Court, in including SABERON in its judgment, acted within its competence.

The detailed narration contained in the ALVAREZ confession, support the Trial Court's finding of conspiracy characterized by treachery, abuse of superior strength and nocturnity. As aptly pointed out by the Solicitor General:

"Evidence adduced on record clearly shows that appellant Alvarez and his co-accused were close friends (barkada) and that they were drug-addicts (tsn, p. 23, Mar. 2, 1988; Oct. 23, 1987, p. 8). Accused Araneta even admitted that he usually played basketball with appellants Alvarez and Saberon on Sundays (tsn, Feb. 15, 1988, pp. 12-13). In fact, appellant Alvarez together with his two co-accused were last seen with the victim and that they reportedly boarded a jeep and snatched a necklace from a woman passenger (tsn, Oct. 23, 1987, pp. 11-12). The reason why appellant Alvarez and his co-accused killed the victim was their differences in the partition of the criminal effects of their various robberies (see Question No. 12, Exh. 'B').

"On June 13, 1984, one day after the murder of the victim, appellant Alvarez and his two co-accused were again seen drinking together by Rosauro Magpantay who heard appellant Alvarez saying — 'Anong ginagawang putang inang matandang ito. Tayo pa ang pinagbibintangan pumatay sa anak niya.' To which statement, accused Saberon made the following reply — 'Pare nadudulas ka na' (tsn, Oct. 23, 1987, pp. 10-11).

"Surely, Alfonso Alvarez, a former policeman and father of appellant Alvarez, was not lying when he pointed to the three accused as the killers of the victim (tsn, Oct. 23, 1987, pp. 12-14). Alfonso Alvarez even fetched Rosauro Magpantay (father of the victim) to accompany him to Valenzuela, so that he (Rosauro) could identify the body of his son (id.). Alfonso Alvarez did not only point to the three accused as the culprits, but he also gave the information leading to the arrest of his own son (appellant Ronald Alvarez), and his co-accused Leopoldo Saberon (tsn, July 14, 1986, pp. 3-4). At the time of their arrest, a knife and a bamboo scabbard were recovered from the accused (pp. 12-13, Id.). When appellant Alvarez executed and signed his confession, his father (Alfonso Alvarez) was present, and the latter also signed the confession as witness (see Exhs. 'BN', 'B-1' to 'B-3').

"All of the above, together with the detailed narration in Questions Nos. 4 to 35 of the confession of appellant Alvarez (quoted in pages 9 to 12 of the lower court's Decision), clearly shows that conspiracy among the three accused was characterized by treachery, evident premeditation, abuse of superior strength and nocturnity as defined under Article 8 of the Revised Penal Code (see p. 12, Decision)."

Even assuming that ALVAREZ, as he claims in his Sworn Statement, acted as a mere "look-out," that does not excuse him from criminal liability as a principal. There being conspiracy, the act of one is the act of all.

Appellants, however, also call attention to their warrantless arrest effected at around midnight of 13 June 1984, contending that it was in violation of their constitutional rights sufficient to nullify subsequent proceedings.

Under Rule 113, Section 6 of the old Criminal Procedure (1964), a warrantless arrest can be effected by a peace officer or private person when an offense has, in fact, been committed and said peace officer or private person has reasonable ground to believe that the person to be arrested has committed it. In the instant case, it was the elder Alvarez who initiated the arrest a day after the crime was committed. Having been once a policeman, he may be said to have been equipped with knowledge of crime detection. And having had the opportunity to observe the

conduct of the three Appellants, who were at his house the whole day following the commission (Tsn., 2 March 1988, p. 3), it is logical to infer that his act of going to the police, informing them that Appellants were the perpetrators of the crime and even fetching them to make the arrest sprang from a well-grounded belief that a crime had been committed and that Appellants had committed it. In this regard, the arrests without a warrant were validly effected.

Error is, however attributable to the Trial Court in imposing the sentence of "life imprisonment, three times each." In the first place, it is always desirable to employ the proper legal terminology in the imposition of imprisonment penalties as provided in the Revised Penal Code because each penalty has its distinct accessory penalties and effects (Aquino, the Revised Penal Code, Vol. I, 1976 Edition, p. 540). Thus, the proper penalty is not "life imprisonment" but "reclusion perpetua." In the second place, since there is only one victim and only one offense of murder, the imposition of multiple penalties is improper. This being so, the proper penalty, considering the attendant circumstances and in the light of the 1987 Constitution, is reclusion perpetua for each of the Appellants. The death indemnity of P50,000.00 should be required, for which appellants should be held jointly and severally liable.

WHEREFORE, the judgment appealed from is hereby AFFIRMED, with the MODIFICATION that Accused-appellants, Ronald Alvarez, Christopher Araneta, and Leopoldo Saberon are hereby each sentenced to suffer a single penalty of reclusion perpetua; to indemnify, jointly and severally, the heirs of the victim, Ismael Magpantay, in the sum of P50,000.00; and to pay the costs.

SO ORDERED.

Paras, Padilla, and Regalado, JJ., concur.
Sarmiento, J., on leave.

[1] By the Regional Trial Court of Valenzuela, Metro Manila, Judge Teresita Dizon-Capulong, Presiding, in Criminal Case No. 6274-V-84.

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