

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OMAR MAPALAO AND REX MAGUMNANG, DEFENDANTS-APPELLANTS.*G.R. No. 92415. May 14, 1991*

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-92415/>**GANCAYCO, J.:**

Highway robbery with homicide is a heinous offense. It is condemnable enough for a person to commit robbery by way of a holdup but if in the process human life is taken, the criminal act is certainly detestable. No less than the death penalty provided by law should be meted out if we are to contain the proliferation of this odious offense. Unfortunately, unless Congress and Malacañang act accordingly to consider by law this class of crimes as heinous offenses, the Courts must have to comply with the constitutional injunction against the imposition of the supreme penalty.

The facts are accurately related by the Regional Trial Court (RTC) of Baguio City as follows:

"It appears from the Evidence that Adolfo Quiambao is a businessman selling textile materials. He has a stall in the Hilltop Market in Baguio where he sells his goods. But sometimes on weekends, he goes to Abatan, Buguias, Benguet to sell his goods.

On September 19, 1987 at about 3:00 to 4:00 A.M., he went to Abatan, Buguias, Benguet using his Ford Fiera with his driver Felizardo Galvez and a certain Jimmy Jetwani (a bombay), where he sold his goods in the afternoon until at night and so, stayed overnight thereat.

The next day, at about 7:00 A.M. of September 20, 1987, after breakfast, Adolfo Quiambao, his driver Felizardo Galvez, and Jimmy Jetwani proceeded to Mankayan, Benguet. This time four Muslims rode with them, namely: Omar Mapalao, Rex Magumnang, Aliman Bara-akal, and a certain Anwar Hadji Edris. Incidentally, Omar Mapalao and Rex Magumnang had previously rode once with Adolfo Quiambao in the latter's vehicle sometime September 13, 1987 while Anwar Hadji Edris (alias Randy) was known to Adolfo Quiambao for sometime already. They arrived in Mankayan at about 8:00 A.M. They stayed 4 hours in Mankayan to sell goods and collect from customers.

At about 12:00 noon of the same day of September 20, 1987, they, the same passengers previously, started from Mankayan going back to Abatan, Buguias, Benguet, with one passenger added, Simeon Calama. At Abatan, Adolfo Quiambao collected amounts from his customers for about an hour.

At about 1:00 to 2:00 P.M. on September 20, 1987, Adolfo Quiambao proceeded on his way back to Baguio. They were 10 in all who rode in his Ford Fiera, namely: (1) his driver Felizardo Galvez; (2) Jimmy Jetwani; (3) Simeon Calama, a son of his customer in Mankayan; (4) Rene Salonga, a friend with whom he stayed in Abatan when he started his business; (5) Eduardo Lopez, a co-vendor who sells also goods in Abatan; (6) Omar Mapalao; (7) Rex Magumnang; (8) Aliman Bara-akal; (9) Anwar Hadji Edris; and (10) Adolfo Quiambao himself.

On the way, they stopped at Natubleng, Buguias, Benguet at about 3:00 P.M. where Jimmy Jetwani and Adolfo Quiambao collected their credits for less than an hour.

From there, they proceeded to Sayangan, Atok, Benguet where they stopped at about 5:00 P.M. for Adolfo Quiambao and Jimmy Jetwani to collect their credits. At Sayangan, too, they ate in a restaurant.

It was about 6:00 P.M. already when they left Sayangan to proceed to Baguio. But when they left Sayangan, Adolfo Quiambao noticed that there were now 5 Muslims with apparently Gumanak Ompa joining them making them 11 passengers in all in his Ford Fiera.

On the way back to Baguio, after about an hour of driving, one of the passengers stopped the vehicle in order to urinate. So they all alighted to urinate. At this point, Adolfo Quiambao took over driving telling his driver Felizardo Galvez to rest.

After about 30 minutes of driving from the time Adolfo Quiambao took over, one of the Muslims stopped the vehicle at Km. 24, Caliking, Atok, Benguet, in order to urinate. And so again they stopped with the Muslims alighting to urinate.

Thereafter, when Adolfo Quiambao was about to start the vehicle to proceed to Baguio, while waiting for the Muslims to board, Omar Mapalao went to the left side of the vehicle near the driver's seat, pointed a gun (Exh. G) at Adolfo Quiambao and announced 'This is a holdup.' Another Muslim went to the other side of the front seat while another Muslim went to the back to guard the back door of the Ford Fiera. And Gumanak Ompa and Rex Magumnang, each armed with a knife, went inside the back of the Ford Fiera and pointed their knives on the passengers. Forthwith, Omar Mapalao, while pointing the gun, ordered all passengers in front to go inside the back of the vehicle. Adolfo Quiambao and Jimmy Jetwani complied. But as Adolfo Quiambao went inside the back of the vehicle, he heard arguing outside and noticed a rumble and a commotion by the left side of the vehicle involving his driver, Felizardo Galvez, and the Muslims. As a consequence, the driver Galvez was injured. Adolfo Quiambao pleaded that they are willing to give their money and valuables provided they (the Muslims) will not harm them. Rex Magumnang and Gumanak Ompa, while poking their knives on the passengers, divested Adolfo Quiambao of P40,000.00, Jimmy Jetwani of P14,000.00, and Simeon Calama of P3,700.00 in cash, watch and clothes.

After divesting the passengers of their money, Rex Magumnang went to the driver's seat to start the vehicle but could not and so he called for Adolfo Quiambao to start it. But Adolfo Quiambao, too, could not start the vehicle. Angered, Omar Mapalao started counting 1 to 3 threatening to shoot Quiambao if the vehicle would not start. Adolfo Quiambao pleaded that he was not the driver and so called for felizardo Galvez, despite the latter being injured, to start the vehicle. After Galvez was able to start the engine, immediately Rex Magumnang went by the side of the driver, Galvez, and took hold of the steering wheel while ordering the latter to step on the accelerator and proceed to the direction of the left side of the road towards the precipice (banging) indicating an intention to have the vehicle driven to the precipice. It was at this point when Galvez struggled and fought with Rex Magumnang for control of the steering wheel as it was being directed to the ravine. It was good Galvez was able to step on the brakes on time to prevent it from falling into the precipice. It was then that Rex Magumnang stabbed and thrust the knife on Galvez with the latter jerking saying 'aray' in pain. At this point, too, the passengers panicked and jumped out of the vehicle scampering in different directions for safety. Adolfo Quiambao jumped out into the ground first and when he saw Mapalao pointing a gun at him, he jumped into the precipice thinking it was better than to be shot at and in doing so hurt himself. The driver Galvez fell to the ravine upon being stabbed. Jimmy Jetwani jumped out of the vehicle and ran to the mountains without looking back. Simeon Calama and Eduardo Lopez and Rene Salonga, too, jumped out and sought safety on the road.

Meantime, a vegetable truck passed by and immediately Aliman Bara-akal boarded the same on the front seat with the driver. Eduardo Lopez also ran after the same truck and boarded it at the back. Not far behind the first vegetable truck was another vegetable truck following it. Simeon Calama stopped it asking for help but Omar Mapalao, with gun in his hand, prevented him. And so the second vegetable truck went on but before it could fully pass by, Simeon Calama took the chance of boarding it when Omar Mapalao's attention was diverted.

Thus, the two vegetable trucks proceeded on their way till they stopped at the toll gate at Acop, Tublay, Benguet. Immediately, Simeon Calama and Eduardo Lopez alighted and reported to the Police Station near the toll gate that they were held up and that one of the Muslims who held them up was in the first truck parked near the toll gate. Aliman Bara-akal was, thus, arrested by the Tublay Police and the amount of P4,015.00 was recovered from him when frisked at the Police Station.

Meanwhile, at the crime scene, the 3 Muslims left thereat, Omar Mapalao, Rex Magumnang and Gumanak Ompa, fled to the mountains leaving their victims and avoided the road so as not to be seen.

It is not clear on record where Anwar Hadji Edris (alias Randy) went after the holdup but in any case he eluded arrest.

After the Muslims have left, Adolfo Quiambao went up to the road level and by then saw also his driver Galvez wounded lying in the precipice.

Thereafter, another vegetable truck passed by, and Adolfo Quiambao asked the driver to help them bring his wounded driver, Felizardo Galvez, from the ravine. Thus, Galvez was brought up to the road and placed inside the Ford Fiera. The vegetable truck driver helped in starting the Ford Fiera. And from there, they proceeded immediately to the Benguet Hospital at La Trinidad, Benguet, but when there was no doctor, they brought Galvez to the Baguio General Hospital.

At the Baguio General Hospital, efforts to save the life of Felizardo Galvez proved futile as the next morning he died of his stab wounds.

Dr. Wi submitted an Autopsy Report (Exh. A) as follows:

‘I. STAB WOUNDS:

- Right Mid-clavicular area, 7th Intercostal Space, penetrating with round edges, 0.5 x 0.5 cm.
- Left Lumbar area, level 11th Intercostal Space, penetrating, with clean cut edges, 1.9 cm.
- Anterior-superior right pre-auricular area, with clean cut edges, 3.5 cm., and 2 cm. deep.
- Right Mid-clavicular area level 2nd rib, non penetrating, 3 x 0.7 cm., and 2 cm. deep.
- Left anterior Deltoid area, 9.5 cm. (extended Surgically).
- Posterior leaf of the Left Diaphragm 3 cm. with hemorrhages around the wound.
- Through and through, Right lower lobe of the Lung, 0.5 x 0.5 cm. with round edges.

‘II. INCISED WOUNDS:

- Right lateral neck, superficial, 2 cm.
- Left supraclavicular to left submandibular area, superficial, 12.5 cm.
- Left upper arm, lateral area, 2 cm. and 2 mm. deep.’

Dr. Wi, also, submitted a sketch of the human body showing the stab wounds sustained in the body of Felizardo Galvez (Exh. B and Exh. C) and the Death Certificate (Exh. D) showing the cause of death as ‘Hypovolemic Shock secondary to Multiple Stab wounds at the right anterior superior and auricular area, right anterior chest, left deltoid area, left lumbar area, posterior with laceration of the right lower lobe of the lung, etc.’

Adolfo Quiambao was also treated of his injuries as shown in his Medical Certificate (Exh. E).

Subsequently, the Tublay Police were able to locate and apprehend on September 21, 1987 at Sto. Niño, Tublay,

Omar Mapalao, Rex Magumnang and Gumanak Ompa.

Also, Jimmy Jetwani, who fled to the mountains at the scene of the incident was found and rescued the next morning after the holdup.

In a confrontation at the Tublay Police Station on September 22, 1987, Adolfo Quiambao, Jimmy Jetwani and Simeon Calama positively identified the four (4) Muslims in custody, Omar Mapalao, Rex Magumnang, Gumanak Ompa and Aliman Bara-akal as among those who held them up at the Halsema Road (mountain trail), Km. 24, Caliking, Atok, Benguet.

Adolfo Quiambao, Jimmy Jetwani and Simeon Calama gave their statements (Exhs. F, M and N) to the police.

At the Tublay Police Station, too, the gun caliber .38 paltik (Exh. G) with 5 live ammunitions (Exhs. G-1 to G-5) and the knife (Exh. G-6) used in the holdup were recovered from the possession of Gumanak Ompa.

Finally, the policemen who apprehended Aliman Bara-akal at the toll gate executed a joint affidavit (Exhs. O and P) and the policemen who apprehended Mapalao, Ompa and Magumnang at Sto. Niño, Tublay, executed a joint affidavit (Exh. R)."[1]

In due course, an amended information was filed in the RTC of Baguio City charging Rex Magumnang, Aliman Bara-akal, Anwar Hadji Edris, Gumanak Ompa and Omar Mapalao of the crime of Highway Robbery with Homicide, defined and penalized under Presidential Decree No. 532, which was allegedly committed on September 20, 1987 at Km. 24 along Halsema Road, Caliking, Atok, Benguet.

Upon arraignment, accused Omar Mapalao, Gumanak Ompa, Rex Magumnang and Aliman Bara-akal, assisted by their counsel, pleaded not guilty.

Accused Anwar Hadji Edris had not been arrested and remained at large. On March 17, 1988, accused Aliman Bara-akal died in jail during the trial so the case was dismissed as to him on April 4, 1988. Accused Rex Magumnang, after being positively identified by witnesses Adolfo Quiambao, Jimmy Jetwani and Simeon Calama during the trial, escaped from detention on September 25, 1988 when brought for medical treatment to the Baguio General Hospital, so the trial in absentia continued as to him.

After the trial on the merits, a decision was rendered by the trial court on January 12, 1990 convicting the accused of the offense charged as follows -

"WHEREFORE, the Court finds accused Omar Mapalao y Dianalan, Gumanak Ompa, and Rex Magumnang guilty beyond reasonable doubt as principals by direct participation, of the offense of Robbery with Homicide in a Highway in violation of PD 532, as charged, and hereby sentences each of them to suffer imprisonment of Reclusion Perpetua, to indemnify jointly and severally the heirs of deceased Felizardo Galvez the sum of Sixty Thousand (P60,000.00) Pesos for his death; to indemnify jointly and severally the offended parties Adolfo Quiambao the sum of Forty Thousand (P40,000.00) Pesos; Jimmy Jetwani the sum of Fourteen Thousand (P14,000.00) Pesos; and Simeon Calama, the sum of Three Thousand Seven Hundred (P3,700.00) Pesos as actual damages, all indemnifications being without subsidiary imprisonment in case of insolvency, and to pay the costs.

The accused Omar Mapalao and Gumanak Ompa being detention prisoners are entitled to 4/5 of their preventive imprisonment in accordance with Article 29 of the Revised Penal Code in the service of their sentence.

The gun caliber .38 paltik (Exh. G) with 5 live ammunitions (Exhs. G-1 to G-5), and the knife (Exh. G-6) being instruments of the crime are hereby declared forfeited and confiscated in favor of the State.

SO ORDERED."[2]

Not satisfied therewith the accused Omar Mapalao and Rex Magumnang appealed the decision to this Court alleging the following errors:

"I

THE TRIAL COURT ERRED IN FAILING TO CONSIDER SIGNIFICANT EXCULPATORY FACTS AND CIRCUMSTANCES.

II

THE TRIAL COURT ERRED IN FAILING TO APPLY CONSTITUTIONAL MANDATE ON THE PRESUMPTION OF INNOCENCE AND PROOF BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY AS PRINCIPALS IN THE CRIME CHARGED AND SENTENCING THEM TO SUFFER AN INDETERMINATE SENTENCE OF FROM 17 YEARS, 4 MONTHS AND 1 DAY OF RECLUSION TEMPORAL AS MINIMUM TO 20 YEARS RECLUSION TEMPORAL AS MAXIMUM."[3]

Parenthetically, the appeal of appellant Rex Magumnang should be struck down. After arraignment and during the trial, he escaped from confinement and had not been apprehended since then. Accordingly, as to him the trial in absentia proceeded and thereafter the judgment of conviction was promulgated.

Nevertheless, through counsel, he appealed to this Court. Under Section 8, Rule 122 of the 1985 Rules of Criminal Procedure, the Court, may "upon motion of the appellee or on its own motion, dismiss the appeal if the appellant escapes from prison or confinement or jumps bail or flees to a foreign country during the pendency of the appeal." In this case, appellant Magumnang remained at large even as his appeal was pending. Hence, by analogy his appeal must be dismissed.

The reason for this rule is because once an accused escapes from prison or confinement or jumps bail or flees to a foreign country, he loses his standing in court and unless he surrenders or submits to the jurisdiction of the court he is deemed to have waived any right to seek relief from the court.

Thus when as in this case he escaped from confinement during the trial on the merits and after his arraignment, and so the trial in absentia proceeded and the judgment against him was promulgated in accordance with Section 14(2) Article III of the 1987 Constitution, nonetheless, as he remained at large, he should not be afforded the right to appeal therefrom unless he voluntarily submits to the jurisdiction of the court or is otherwise arrested, within fifteen (15) days from the notice of the judgment against him. While at large as above stated he cannot seek relief from the Court as he is deemed to have waived the same and he has no standing in court.

To this effect a modification is in order of the provision of the last sentence of Section 6, Rule 120 of the 1985 Rules of Criminal Procedure which provides:

"If the judgment is for conviction, and the accused's failure to appear was without justifiable cause, the court shall further order the arrest of the accused, who may appeal within fifteen (15) days from notice of the decision to him or his counsel."

It should provide instead that if upon promulgation of the judgment, the accused fails to appear without justifiable cause, despite due notice to him, his bondsmen or counsel, he is thereby considered to have waived his right to appeal. However, if within the fifteen (15) day period of appeal he voluntarily surrenders to the court or is

otherwise arrested, then he may avail of the right to appeal within said period of appeal.

By the same token, an accused who, after the filing of an information, is at large and has not been apprehended or otherwise has not submitted himself to the jurisdiction of the court, cannot apply for bail or be granted any other relief by the courts until he submits himself to its jurisdiction or is arrested.

In *Gimenez vs. Nazareno*,^[4] this Court had occasion to rule on a similar case in this wise -

"First of all, it is not disputed that the lower court acquired jurisdiction over the person of the accused-private respondent when he appeared during the arraignment on August 22, 1973 and pleaded not guilty to the crime charged. In criminal cases, jurisdiction over the person of the accused is acquired either by his arrest for voluntary appearance in court. Such voluntary appearance is accomplished by appearing for arraignment as what accused-private respondent did in this case.

But the question is this - was that jurisdiction lost when the accused escaped from the custody of the law and failed to appear during the trial? We answer this question in the negative. As We have consistently ruled in several earlier cases, jurisdiction once acquired is not lost upon the instance of parties but continues until the case is terminated.

To capsulize the foregoing discussion, suffice it to say that where the accused appears at the arraignment and pleads not guilty to the crime charged jurisdiction is acquired by the court over his person and this continues until termination of the case, notwithstanding his escape from the custody of the law.

Going to the second part of Section 19, Article IV of the 1973 Constitution aforecited a 'trial in absentia' may be had when the following requisites are present: (1) that there has been an arraignment; (2) that the accused has been notified; and (3) that he fails to appear and his failure to do so is unjustified.

In this case, all the above conditions were attendant calling for a trial in absentia. As the facts show, the private respondent was arraigned on August 22, 1973 and in the said arraignment he pleaded not guilty. He was also informed of the scheduled hearings set on September 18 and 19, 1973 and this is evidenced by his signature on the notice issued by the lower court. It was also proved by a certified copy of the Police Blotter that private respondent escaped from his detention center. No explanation for his failure to appear in court in any of the scheduled hearings was given. Even the trial court considered his absence unjustified.

The lower court in accordance with the aforestated provisions of the 1973 Constitution, correctly proceeded with the reception of the evidence of the prosecution and the other accused in the absence of private respondent, but it erred when it suspended the proceedings as to the private respondent and rendered a decision as to the other accused only.

Upon the termination of a trial in absentia, the court has the duty to rule upon the evidence presented in court. The court need not wait for the time until the accused who escaped from custody finally decides to appear in court to present his evidence and cross-examine the witnesses against him. To allow the delay of proceedings for this purpose is to render ineffective the constitutional provision on trial in absentia. As it has been aptly explained:

'x x x The Constitutional Convention felt the need for such a provision as there were quite a number of reported instances where the proceedings against a defendant had to be stayed indefinitely because of his non-appearance. What the Constitution guarantees him is a fair trial, not continued enjoyment of his freedom even if his guilt could be proved. With the categorical statement in the fundamental law that his absence cannot justify a delay provided that he has been duly notified and his failure to appear is unjustified, such an abuse could be remedied. That is the way it should be, for both society and the offended party have a legitimate interest in seeing to it that crime should not go unpunished.'

The contention of the respondent judge that the right of the accused to be presumed innocent will be violated if a

judgment is rendered as to him is untenable. He is still presumed innocent. A judgment of conviction must still be based upon the evidence presented in court. Such evidence must prove him guilty beyond reasonable doubt. Also, there can be no violation of due process since the accused was given the opportunity to be heard.

Nor can it be said that an escapee who has been tried in absentia retains his rights to cross-examine and to present evidence on his behalf. By his failure to appear during the trial of which he had notice, he virtually waived these rights. This Court has consistently held that the right of the accused to confrontation and cross-examination of witnesses is a personal right and may be waived. In the same vein, his right to present evidence on his behalf, a right given to him for his own benefit and protection, may be waived by him.

Finally, at this point, We note that Our pronouncement in this case is buttressed by the provisions of the 1985 Rules on Criminal Procedure, particularly Section 1(c) of Rule 115 which clearly reflects the intention of the framers of our Constitution, to wit:

‘ . . . The absence of the accused without any justifiable cause at the trial on a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused under custody had been notified of the date of the trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. . . . ’

Accordingly, it is Our considered opinion, and We so hold, that an escapee who has been duly tried in absentia waives his right to present evidence on his own behalf and to confront and cross-examine witnesses who testified against him."

Now to the appeal of appellant Omar Mapalao.

The main thrust of his appeal is a denial of his complicity. While he admitted to be among the passengers of the vehicle on that fateful day and to be present during the holdup, he alleged that he did not participate at all in the commission of the crime and that he did not know anything about its commission as in fact he left with Magumnang after the alleged holdup. He also asserted that the prosecution witnesses could not have identified him in view of the darkness of the night then. He said that when they were apprehended by the police no firearm or money was found in his possession.

The Court finds that the appeal is devoid of merit.

The evidence shows very clearly that on the date of the holdup the appellant was already a passenger in the vehicle of Adolfo Quiambao since 7:00 A.M. of September 20, 1987 which was driven by Felizardo Galvez, with Jimmy Jetwani, Quiambao, Rex Magumnang, Aliman Bara-akal, Anwar Hadji Edris and Calama. They were together the whole day up to the evening in going to Abatan, Buguias, Benguet and in the afternoon of the same day they were also together on the way back to Baguio from Abatan until the holdup occurred in the early evening of the same day at Km. 24, Caliking, Atok, Benguet. The Muslims stopped the vehicle to urinate at said place. Appellant went to the left side of the vehicle near the driver's seat and pointed a gun at Quiambao and announced "this is a holdup." A Muslim went to the other side of the front seat while another Muslim went to the back to stand guard. Gumanak Ompa and Rex Magumnang, each armed with a knife, went inside the back of the Ford Fiera and pointed their knives at the passengers. Appellant while pointing the gun ordered the passengers to go to the back of the vehicle so Quiambao and Jetwani complied. After Quiambao went to the back of the vehicle he noticed a commotion near the left side of the vehicle involving his driver Galvez and the Muslims. Galvez was harmed. Quiambao pleaded that they are willing to give their money and valuables provided the Muslims will not harm them. Rex Magumnang and Gumanak Ompa divested Quiambao of P40,000.00, Jetwani of P14,000.00 and Calama of P3,700.00 in cash, a watch and clothes while poking their knives at them.

Magumnang tried to start the vehicle but as he could not he called Quiambao to start it but the latter also failed. Angered, the appellant started counting 1 to 3 threatening to shoot Quiambao if the vehicle did not start. Quiambao called Galvez who was able to start the engine. Magumnang went by the side of Galvez and took the steering wheel and drove towards the precipice. Galvez struggled and fought with Magumnang for control of the steering wheel as it was directed to the ravine. Magumnang stabbed and thrust the knife at Galvez. The passengers panicked and jumped and ran away in different directions. Mapalao, Magumnang and Ompa fled to the mountains.

From the foregoing evidence of the prosecution there can be no question as to the participation of the appellant in the robbery holdup. He was positively identified by witnesses who were together with the appellant from the morning up to the evening of the same day in the Ford Fiera. Quiambao categorically testified that it was the appellant who was holding the gun with two hands who ordered them to give their cash collections and personal belongings to them.[5] Jimmy Jetwani corroborated Quiambao's testimony in that it was the appellant who ordered them at gunpoint to get down from the vehicle and to go to the back and to give their money to them. Although it was already dark there was a light inside the vehicle.[6]

On cross-examination Jetwani stuck to his identification of the appellant as one of the culprits as he saw not only his face but the gun he used by the side of the door facing him and Quiambao.[7] Another prosecution witness, Simeon Calama, also identified appellant as the one who pointed a gun at them in front. He stated he is familiar with his voice as during the journey they were joking with each other.[8]

The identification of the culprits in offenses of this nature is vital and decisive. In this case the identification was made by eyewitnesses who were together with the appellant practically the whole day in the same vehicle, and who themselves are the victims of the holdup staged by the appellant with his other co-accused. Although it was already dark there was light in the vehicle. Moreover, there were no other persons in the vicinity at the time of the holdup except the appellant, his co-accused and the victims.

Contrary to the claim of appellant that he is innocent as he did not escape together with Edris who was allegedly the principal player in the holdup, the fact remains that the appellant escaped to the mountains together with his co-accused Magumnang and Gumanak Ompa. Their escape is evidence of their guilt.

As the Court observed at the opening paragraph of this decision, robbery attended by homicide or murder is certainly a heinous offense, more so when in this case it is committed in the highway. There is hardly any justification for the court to share the leniency of the trial court by imposing only the life imprisonment as penalty. The circumstances of the commission of the offense do not justify at all or require any killing or injury to be inflicted on any of the victims. The appellant and his confederates were all armed while the victims were not. They were at their mercy. None of them attempted to fight back or to resist. They gave all their valuables and personal belongings. All they were pleading for was that their lives be spared. It fell on deaf ears. It was a senseless killing for no valid reason. The appellant and his confederates deserve the supreme penalty of death and no less.

But as the Court said, this is not possible under the Constitution.

Our peace and order situation today is very volatile. We have experienced several attempted coups and we are warned of other possible coups. Our peace and order problem is a continuing one. The division in our society is obvious and gaping. Our country is suffering from the economic depression caused not only by the recent calamities that visited us which were compounded by the Gulf war. Thus, measures should be undertaken in order to minimize if not entirely prevent serious crimes against life, chastity and of property resulting in the wanton taking of human life. Our hope is for a lasting peace and order in our society. A law must now be enacted defining

what are the heinous offenses punishable with the death penalty. We should not tarry too long.

WHEREFORE, the appealed decision is **AFFIRMED** in toto, with costs against the defendants-appellants.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Sarmiento, J., in the result. I am against the death penalty.

[1] Pages 16 to 20, Rollo.

[2] Pages 24 to 25, Rollo.

[3] Page 1, Appellants' Brief; page 34, Rollo.

[4] 160 SCRA 1, 5 to 7 (1988). Section 14(2), Article III, 1987 Constitution; and see also, *People vs. Salas*, 143 SCRA 163, 166 to 167 (1987).

[5] TSN, April 4, 1988, pp. 12-13.

[6] TSN, July 12, 1988, pp. 135-137.

[7] TSN, July 12, 1988, pp. 135-137.

[8] TSN, August 12, 1988, pp. 10-11.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.