

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO “RAMBO” LISING, RODOLFO MANALILI, FELIMON GARCIA, ENRICO DIZON AND ROBIN MANGA, ACCUSED-APPELLANTS.

G.R. Nos. 106210-11. January 30, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The parents of Cochise and Beebom must have lifted their sorrowful faces heavenward and blurted out an anguished cry: “Oh God! Why must it be they, so young, so loving, so beautiful and so promising, to be brutally snatched from our embrace and never to be seen again?”

Conchise, whose full name was Ernesto Bernabe II, was 26 years old on the fateful day of April 26, 1990 and Ana Lourdes Castaños, or Beebom to her family and friends, was 22. Cochise had just graduated from the University of the Philippines with a degree of Bachelor of Laws and was reviewing for the bar examinations, while Beebom was a graduating student at the College of Mass Communications from the same university. Both excelled in academic and extra-curricular activities.

The senseless and gruesome killing of the young man and woman, both full of promise, horrifies us. But what makes this crime more despicable in our eyes is the involvement of people sworn to uphold the law.

For the crimes for which they were charged and sentenced, appellants now come to this Court asking us to give their case a second look, insisting on their innocence.

Sometime in March, 1990, Rodolfo Manalili, a businessman asked Felimon Garcia, his townmate, if he knew somebody who could allegedly effect the arrest of one Robert Herrera, the suspect in the killing of his brother, Delfin Manalili.

Felimon Garcia said he knew one and arranged a meeting with him.

On April 21, 1990, Felimon Garcia called up Manalili and informed him that he already contacted a policeman to help him and said that the policeman wanted to talk to him. So an appointment was set at 12:00 p.m. of April 22, 1990 at Dau Exit, North Expressway, Mabalacat, Pampanga.

On said date Manalili, together with his son Richard, arrived at the Dau Exit at about 12:30 p.m. of April 22, 1990. Felimon Garcia was already there waiting for Manalili.

They proceeded to the Golden Palace Chinese Restaurant where they would meet Roberto Lising. They, however, had to change venue because Roberto Lising’s live-in partner, Ligaya Faustino and other companions were in the restaurant. So they went instead to a nearby carinderia and instructed Felimon Garcia to follow them there.

Shortly, Felimon Garcia arrived and introduced Roberto Lising, Enrico Dizon and another man armed with a service pistol to Manalili. During the meeting, Manalili gave them P2,000.00 and instructed them to go and see Vic Nabua,[*] his employee who will point to them the person to be arrested.

On April 23-24, Lising's group went to Quezon City and met Vic Lisboa. They conducted a surveillance on the Castaños residence in the hope of seeing Herrera. Failing to do so, the group was asked to come back the next day.

On April 25, the same group arrived at the vicinity of the Castaños residence at around 5:00 p.m. to resume their surveillance. Two hours later, Lisboa alerted the group after allegedly spotting Herrera entering the Castaños residence.

Later, the group saw a man and a woman who happened to be Cochise and Beebom leave the Castaños residence in a green box type Lancer car. The group followed the Lancer car with Lising, Dizon and Manga riding in a black car and Lisboa and Garcia in a motorcycle.

The Lancer car went to Dayrit's Ham and Burger House on Timog Circle, Quezon City where the couple intended to have dinner. Alighting from the car, they were accosted by Dizon and Manga who were both carrying firearms. Amidst protestations, Dizon poked his gun at Cochise, handcuffed him, and shoved him into the car. Beebom protested loudly at the arrest and was also shoved into the back of the car.

The young couple's failure to go home that night and the next day alarmed their parents, so a search was then initiated by close friends and relatives - inquiring from hospitals, restaurants, friends' houses and possible places where the couple would go.

One group chanced upon Dayrit's Ham and Burger House where they were told that a couple who fitted their descriptions were taken by three (3) men believed to be from the military in the evening of April 25, 1990.

The abduction of Cochise and Beebom hit the front pages. Appeals by the parents to locate them reached the authorities where all possible angles of their disappearance were explored but there were no significant leads. After about two (2) months of futile search for their whereabouts, a break came on June 21, 1990 when two (2) security guards working in a Shellane Warehouse in San Fernando, Pampanga went to see Ms. Rosie Bernabe at her Pasay City Hall office and had information concerning her son, Cochise. Mrs. Bernabe referred the two guards to the CAPCOM who interviewed them.

The two guards told the CAPCOM that their friends Raul Morales and Jun Medrano, both employees of Roberto Lising, informed them that Lising killed a mestisuhin man and a woman in their warehouse.

On June 23, 1990, Raul Morales was picked up and told his story. In a sworn statement executed on even date, he stated that he was a pahinante residing in the warehouse where LPG cylinders are stored, located near Valle Verde Drive-In Lodge in San Fernando, Pampanga, owned by Ligaya Fausto, common-law wife of Roberto Lising alias "Rambo." In the main, he said:

21. T: -

Sa ikaliliwanag ng pagsisiyasat na ito, maaari bang isalaysay mo ang sinasabi mong hindi pangkaraniwang pangyayari?

S: -

Nangyari yan alas 2:00 ng madaling araw ng 26 April 1990 natutulog ako, nang mayron kumatok sa pinto ng bodega at nagising ako. Tinawag ko si Aida Morales para buksan ang gate tapos sabi ni Aida "Ikaw na lang ang magbukas" pagkatapos kinuha ko yung susi sa kanya para buksan ang yong gate. Noong binubuksan ko yong gate

sabi sa akin ni Roberto Llising “Bakit ang tagal mo” tapos pakabukas ko ng gate pumasok yong dalawang kotse una yung itim pagkatapos yung green na kotse na Lancer, tapos unang bumaba sa kotse na itim si Rambo, pangalawa si Felimon bumaba sa kotse na Lancer may dala na pala. Pagkatapos lumabas ng gate si Felimon may dala na pala. Si Rambo naman binuksan yong dalawang pinto ng kotseng itim bumaba yung babae at saka yung lalaki hinila palabas ni Rambo. Pagkatapos tinalian niya ng alambre bukod pa sa pagtali ng alambre pati pa yong mukha tinalian ng damit. Pagkatapos pagtali ni Rambo, biglang dumating si Felimon dala pa yong pala pagkatapos sininyasahan si Rambo na ilabas na iyong lalaki. Dinala ulit ni Rambo yung pala noong palabas na sila nung lalaki. Pagkatapos ayaw nga lumabas ng lalaki, itinulak ni Rambo papunta sa labas, sabi naman ng babae maawa naman po kayo sa amin dahil wala kaming kasalanan” pagkatapos tinutukan ni Rambo yong babae at sabi “Putang ina mo, wag kang maingay, papatayin rin kita”. Noong dinala na ni Rambo, umiiyak na lang yong babae. Mga kalahating oras bago bumalik si Rambo sa bodega na hindi na kasama yong lalaki. Nakahubad siya at pinapawisan, bukod pa yan, naghugas pa ng kamay siya. Pagkatapos nag-usap-usap silang tatlo, si Rambo, si Felimon at yong kasama ni Rambo. Pagkatapos nagsabi si Rambo sa akin na buksan na ang gate at aalis na sila. Binuksan ko ang gate at nagsakayan sila sa kotse, si Rambo sa itim at saka yong babae, sa Lancer naman ang nakasakay yong kasama niya at si Felimon, at pagkatapos lumabas na sila, tuloy-tuloy na umalis.[1]

On June 25, 1990, the body of Cochise was exhumed. An autopsy was conducted where the finding was: Cause of Death: “Multiple Stab Wounds”

The next day, Beebom’s body, which was in an advanced decomposing stage was exhumed from a shallow grave, two (2) kilometers from where Cochise’s body was found.

After evading arrest the previous days, Roberto Llising was finally apprehended on June 30, 1990. In a Sworn Statement on the same day at Camp Bagong Diwa, Bicutan, he implicated Felimon Garcia and Roberto Manalili. According to him, this is what happened:

x x x at about 11:00 o’clock in the evening of April 25, 1990, he received a telephone call from FELIMON GARCIA informing that he and his companions were at Valle Verde Lodge at San Fernando, Pampanga and that they have a problem. He immediately went to that place and saw FELIMON GARCIA who introduced to him RUDY MANALILI who was then accompanied by six (6) other men; that he saw a yellow Mercedes Benz, a black Torana and a green Lancer; that on board the Lancer were a man and a woman who were blindfolded and were introduced to him by RUDY MANALILI as ROBERTO HERRERA and JOY MANALILI; that they proceeded to one of the rooms of the motel where MANALILI told him that the two persons should die because they killed his brother DELFIN MANALILI; that afterwards RUDY MANALILI paid the chit and they proceeded to the warehouse at Villa Victoria, San Fernando, Pampanga, owned by LIGAYA FAUSTO where he bound COCHISE and led him back of the warehouse; that MANALILI stabbed COCHISE and he acted only as a look-out; that FELIMON GARCIA and another person brought the blindfolded woman to Brgy. San Agustin where she was killed that before he, FELIMON GARCIA and RUDY MANALILI parted ways, MANALILI told him to take care of the Lancer, change its color and later he will get it and after that he was given P40,000.00 in check which he encashed at the UCPB Diliman Branch, Quezon City on April 26, 1990; that he gave P15,000.00 to FELIMON GARCIA and kept the rest; that he had the Lancer repainted and used it.[2]

Thereafter, the manhunt for Felimon Garcia and Rodolfo Manalili began. One by one, the men responsible for the killing of Cochise and Beebom fell into the hands of the authorities.

On January 4, 1991, Garcia surrendered and was brought to the NBI. He named Pat. Enrico Dizon as the companion of Llising when Cochise and Beebom were kidnapped and brought to Valle Verde Lodge. He refused to make a statement or give further information until Rodolfo Manalili was arrested.

On January 16, 1991, Enrico Dizon was turned over by his superiors to the NBI. He named a certain CIC Robin Manga as one of their companions and owner of the car they used when Cochise and Beebom were kidnapped. Thus, Manga was also picked up.

Meanwhile, Rodolfo Manalili, who was in Australia at that time was fetched by then NBI Director Alfredo Lim and Atty. Diego Gutierrez after proper representations were made with the Australian police.

On January 17, 1991 Felimon Garcia, with the assistance of his counsel, Atty. Redemberto Villanueva, executed a statement revealing that:

x x x he met RODOLFO MANALILI sometime in April 1987 in his office at No. 71 Mapang-akit Street corner V. Luna, Quezon City while soliciting contribution for Barangay fiesta of San Isidro, Minalin. The relationship continued until he was requested by MANALILI to look for persons who could help in arresting ROBERTO HERRERA, the suspect in the killing of his brother DELFIN MANALILI. He contacted ROBERTO LISING alias RAMBO, a policemen assigned with Pampanga PC Intelligence Unit, thru LIGAYA FAUSTO, his relative and live-in partner of LISING, to help in the arrest of HERRERA, and on April 21, 1990, while in the residence of LISING, he placed a long-distance call to MANALILI to inform him that LISING is willing to help. They talked over the phone and agreed to meet the following day in Dao.

He met MANALILI at the Dao-Mabalacat exit and accompanied the latter to LISING, ENRICO DIZON AND ANOTHER MAN ARMED WITH SERVICE PISTOL (.45 CALIBER AND Armalite. MANALILI, during the meeting, said that VIC NABUA, his employee, will act as pointer of the persons to be arrested and LISING agreed and asked from MANALILI P50,000.00 for the job to which MANALILI agreed. Initially MANALILI gave P2,000.00 to LISING as expenses.

He together with LISING, ENRICO DIZON and the driver of a Tamaraw went to Quezon City on April 23 and 24, 1990, but VIC NABUA failed to spot HERRERA. On April 25, 1990, LISING and DIZON returned on board a black car, Colt Galant (sic) driven by ROBIN MANGA and NABUA finally told them that HERRERA was at a house near the Camelot. After a few minutes of surveillance NABUA approached them and told them to follow the car driven by a man with a woman companion. Said car proceeded to Timog Circle and parked in front of Dayrit Hamburger House, followed by the Colt Galant which they likewise followed on board a motor and handcuffed the man and the woman. Then LISING instructed him to contact MANALILI and VIC NABUA proceeded to Pampanga PC where they were instructed by the military on duty to proceed to Valle Verde Lodge, San Fernando, Pampanga. There they saw LISING and ERNESTO COCHISE BERNABE and BEEBOM CASTAÑOS. MANALILI identified them and instructed him and LISING to release COCHISE and BEEBOM and assured that whatever MANALILI promised to LISING WILL BE PAID. Lising AGREED. However, after MANALILI left, LISING told him to bring COCHISE and BEEBOM to a warehouse owned by LIGAYA FAUSTO where COCHISE was killed by LISING. Thereafter BEEBOM was forced by ENRICO DIZON and ROBIN MANGA to board the Galant car which left the warehouse towards Barangay San Agustin.

He and LISING were left in the warehouse and proceeded to the house of LIGAYA FAUSTO at MALIGAYA Village in San Fernando. At about 9:00 a.m. he and LISING went to the warehouse of MANALILI at Xavierville Subdivision, Quezon City and there a check for P40,000.00 was given to LISING who encashed it with Fareast Bank and went to Pampanga. He alighted at Sto. Domingo, Minalin, Pampanga after LISING gave him P500.00.[3]

Rodolfo Manalili, on the other hand, with the assistance of Atty. Rodolfo Jimenez manifested on January 18, 1991:

that he met LISING through FELIMON GARCIA whom he requested to look for some police officers who could help in the arrest of ROBERTO HERRERA, the accused in the killing of his brother DELFIN

MANALILI.

He met LISING together with a certain Pat ENRICO DIZON of the Guagua police and another police officer in Dau, Pampanga on April 22, 1990, and gave them a sketch of HERRERA. On April 24, 1990, he told GARCIA to postpone their plan against HERRERA due to his forthcoming travel to Germany on April 25. However, at about 10:00 p.m. of April 25, GARCIA came to his office at No. 71 Mapangakit, Diliman, Quezon City and informed that they have already arrested HERRERA with a lady companion and that he was instructed to go to Pampanga, which he did. He was accompanied in his car by GARCIA and VICTOR LISBOA.

They proceeded to Valle Verde Hotel in San Fernando, Pampanga, and brought him to Room 213 where he saw a man slumped on the floor with his eyes and mouth covered with tape. The lady companion sitting on the bed had her eyes also taped. He told LISING that the man is not HERRERA. He was forced to peek (sic) inside the room anew, and this time recognized the woman to be BEEBOM CASTAÑOS. He pleaded to LISING and companions to release them and would give them whatever amount he promised them.

After he was told that BEEBOM and COCHISE would be released he instructed GARCIA to stay behind and see to it that his instructions were complied with. Then, he returned with VICTOR LISBOA. The following day, at about 8:00 a.m., LISING and GARCIA came to his house and told him that the man and BEEBOM were already released and in turn gave them a Far East Bank check in the amount of P40,000.00.

On April 26, he left for Germany and returned on May 28, 1990. While still in Germany his wife and househelps have been receiving threatening telephone calls and on the first week of June he received a call from GARCIA who gave the telephone to LISING who asked for P60,000.00, otherwise he will kill him or implicate him in the crime.

On June 21, 1990 he left for Hong Kong then to Melbourne for fear of his life and that of his family.

He claimed that the police officers he saw in Valle Verde Hotel were Pampanga policeman and not Quezon City policeman.[4]

Consequently, two (2) Amended Informations were filed in court against Roberto “Rambo” Lising, Rodolfo Manalili, Felimon Garcia, Enrico Dizon, Robin Manga, and Ligaya Fausto.

Criminal Case No. Q-90-15239

For Carnapping (Violation of Republic Act No. 6539)[5]

That on or about the 25th day of April 1990, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, P/Pfc. Roberto Lising y Canlas, Enrico Dizon, Robin Manga y Quimzon, being then members of the Integrated National Police with Presidential waiver, and Rodolfo Manalili, Felimon Garcia and Ligaya Fausto, private individuals and several Does, conspiring together, confederating with and mutually helping one another, with intent to gain, and without the knowledge and consent of the owner thereof, by means of violence and intimidation against persons, did, then and there, willfully, unlawfully and feloniously take, rob and carry away one G.T. Lancer, with plate No. PER 942 in an undetermined value and belonging to Ernesto Bernabe II, to the damage and prejudice of the offended party in such amount as may be awarded under the provisions of the Civil Code.[6]

Criminal Case No. Q-90-15240

For: Kidnapping with Double Murder[7]

That on or about the 25th day of April, 1990, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, P/Pfc. Roberto “Rambo” Lising y Canlas, Enrico Dizon, Roberto (sic) Manga y Quimzon, being then members of the Integrated National Police with Presidential waiver, and Rodolfo Manalili, Felimon Garcia, both private individuals, and several Does, conspiring together, confederating with

and mutually helping one another, did, then and there, willfully, unlawfully and feloniously and for the purpose of detaining Ernesto Bernabe II y Blanco @ 'Cochise' and Ana Lourdes Castaños y Jis de Ortega @ 'Beebom,' kidnap or in any manner deprive them of their liberty and thereafter, pursuant to their conspiracy, took them to San Fernando, Pampanga, and with intent to kill, with treachery, evident premeditation and cruelty, did, then and there stab them several times in the chest and slit open their necks, augmenting their sufferings which were the direct and immediate cause of their deaths and thereafter burying them to prevent discovery, and Ligaya Fausto, also a private individual, knowing the criminal intent of the above-named principal accused cooperated in the execution of the crime by supplying material and/or moral aid, to the damage and prejudice of the Heirs of said victims in such amounts as may be awarded to them under the provisions of the New Civil Code.[8]

Upon arraignment, all the accused pleaded not guilty.

In building up their case, the prosecution presented two vital witnesses: Froilan Olimpia, who witnesses the abduction of the young couple at Dayrit's Ham and Burger House; and Raul Morales, the pahinante who testified on the killing of Cochise.

On May 27, 1991, Froilan Olimpia testified in court and stated that he was 31 years old and was formerly a security guard of Nationwide Security and Investigation Agency. He was assigned at the Rotonda Wine Station, the establishment beside Dayrit's Ham and Burger House along Timog Circle, Quezon City. His tour of duty on April 25, 1990 was from 12:00 noon to 12:00 midnight.

At about 7:00 to 7:30 in the evening, Olimpia was at his post in front of the Wine Station. There was a green box type Lancer car which parked in front of the Dayrit's Ham and Burger House carrying a man and a woman. Then a black car with no license plate parked behind the green car and two men alighted from it carrying guns. They announced that they were policemen, one was carrying a .45 caliber firearm in his holster and other was carrying a long firearm. These men went towards the green box type Lancer and handcuffed its driver. He only heard the man being handcuffed retort "Bakit?" When asked about the female companion, he said that his attention was more focused on the handcuffing incident and just later noticed that the woman was already seated at the back of the car. He did not even see the other man driving the black car.

Olimpia further explained that the security guard of Dayrit's Ham and Burger House, Anastacio dela Cruz, was not really able to witness the whole incident since he was busy buying a cigarette stick from a nearby vendor. Just when the latter was returning to his post, the cars were already backing up ready to leave.

He did not tell anyone about the incident nor bothered to report to the authorities since he was aware that the perpetrators were policemen. He came to know about the identities of the man and woman and their disappearance when two persons were making inquiries about them on April 27, 1990. The next time, another group of people asked him about what he witnessed until he was picked up by the NBI for further questioning about the whole incident.

Raul Morales was presented in court on April 17, 1991. He stated that since March 1988, he had been working for Ligaya Fausto and Roberto Lising as a pahinante or truck helper of Crown Gas Commercial, a dealer of LPG, located in Valle Victoria Village, San Fernando, Pampanga. He knew Roberto Lising to be a policeman and is known by the name "Rambo" Lising. He works as a policeman in the morning and when he returns home after work, helps in delivering gas. During his testimony, Morales was given a clean sheet of paper and pen where he was asked to make a sketch of his place of work.

At about 2:00 in the morning of April 26, 1990, he was awakened by a knock at the gate of the warehouse. When he opened the gate, two cars came in: a green box-type Lancer car driven by Lising, with Felimon Garcia seated

in front, a man and a woman at the back seat of the car; and a black car with Dizon and Manga. After the two cars entered the premises, he saw Lising go behind their sleeping quarters and get a wire. Lising and Dizon then brought Cochise to an area in the middle of the warehouse while Manga led Beebom to another end. After alighting from the car, Felimon Garcia got a spade from the back compartment of the car and went out of the warehouse. Lising and Dizon then removed the handcuffs of Cochise, tied his hands with the wire and blindfolded him with a tape and torn cloth.

Morales further testified that it was Lising who closed the gate but left it ajar. In a little while, he noticed another man enter the gate and walked towards Beebom. He heard the woman plead: "Uncle, maawa po kayo sa amin," while Manga was tying Beebom's hands with the wire. Garcia, after going inside the warehouse, was handed a knife by Lising which he used to stab Cochise on the chest. Lising then retrieved his knife from Garcia and continued to stab Cochise. When Cochise was already dead, the four men, namely, Lising, Garcia, Dizon and Manga carried Cochise out of the warehouse. They were away for about half an hour and when they came back, the four men directly went to the well and washed their hands. The four walked towards Manalili and talked with each other. He could not hear the conversation but saw that they grouped themselves together.

Before leaving, Lising called on Morales and told him to close the gate and keep the shoes of Cochise. Lising boarded the green box-type Lancer car with Garcia and the woman. He noticed Rudy Manalili walk out of the gate.

On April 26, 1991, the court conducted an ocular inspection of the scene of the crime. Witness Morales pointed to the court how events transpired from where he was seated.

On the basis of the testimonies of the above witnesses, plus the confessions made in the extrajudicial statements executed by Roberto Lising, Felimon Garcia, and Rodolfo Manalili, the prosecution presented their version of the incident as quoted from the trial court's decision, to wit:

- The conspiracy to abduct and subsequently kill Ernesto "Cochise" Bernabe II and Ana Lourdes "Beebom" Castaños was hatched sometime in March 1990 when accused Rodolfo Manalili secured the services of accused Felimon Garcia to look for men who would be willing to commit the dastardly deed for a fee. (Exhibits "HH" and "MM").
- Accused Garcia then set about on his task and contacted accused Roberto Lising and Enrico Dizon for the "job." (Ibid.)
- At a meeting arranged by Garcia on 22 April 1990, accused Manalili talked with Lising and Dizon at Mabalacat, Pampanga about the details of the conspiracy. (Ibid.)
- Accused Manalili promised Lising, Dizon and their companions the amount of P50,000.00 for the "job." (Ibid.)
- Lising and Dizon readily accepted Manalili's using a total of P10,000.00 as downpayment, the balance of P40,000.00 payable after the victims have been kidnapped and killed. (Ibid.)
- Accused Lising and Dizon then recruited accused Robin Manga to help implement the orders of Manalili. (Ibid.)
- On 25 April 1990, at around 5:00 o'clock in the afternoon, accused Lising, Dizon, Garcia and Manga, on board Manga's black car, went to the vicinity of the Camelot Hotel at Quezon City. They positioned themselves about 60 meters away from the Castaños residence and waited for the victims. (Exhibit "MM")
- At around 6:30 o'clock in the evening of the same day, Cochise and Beebom went out of the Castaños residence, boarded Cochise's green colored 1985 Lancer car with plate No. PER 942. (Ibid.) This Lancer car is owned by, and registered under the name of Cochise's father, Fiscal Ernesto Bernabe. (Exhibit "DD")

- Cochise and Beebom then proceeded toward Dayrit's Ham and Burger House at Timog Avenue, Quezon City. (Ibid.)
- Accused Lising, Dizon, Garcia and Manga immediately boarded Manga's black car and tailed the green Lancer. (Ibid.)
- Upon reaching Dayrit's hamburger House, Cochise parked the green Lancer in front of the restaurant. (TSN, 7 May 1991, p.6)
- Immediately thereafter, Manga's black car was parked immediately behind. (Ibid.)
- Accused Dizon, armed with a .45 caliber pistol, and accused Manga, carrying a long firearm, alighted from the black car, proceeded towards the green Lancer and announced that they are policemen. (Id. At 7)
- While Cochise and Beebom were alighting from the green Lancer, Dizon approached, pointed the .45 caliber pistol at Cochise and handcuffed Cochise's hands behind his back. (Id., at 8)
- Cochise, visibly surprised and confused, asked Dizon, "Bakit?" (Id. at 14)
- Accused Dizon ignored the question and rudely pushed Cochise into the back seat of the green Lancer. (Id., at 7-9)
- Similarly, accused Manga approached Beebom at the other side of the green Lancer, and pushed her into the other back seat of the green Lancer. (Ibid.)
- Accused Dizon and Manga then boarded the front of the green Lancer, backed the car out of the parking area of Dayrit's Ham & Burger House and drove away towards EDSA. (Id.at 11)
- Accused Lising and Garcia, on board Manga's black car, immediately followed. (Ibid.)
- After the forcible abduction of Cochise and Beebom, Garcia informed Manalili of the success of the operation. Garcia further told Manalili to go to a designated place in San Fernando, Pampanga, where Cochise and Beebom will be taken. (Exhibit "MM")
- Manalili then proceeded to San Fernando, Pampanga on board his gray Mercedes Benz. (Ibid.)
- At around 2:00 o'clock in the morning of 26 April 1990, accused Lising, Dizon, Garcia and Manga brought Cochise and Beebom to a bodega in San Fernando, Pampanga owned by accused Ligaya Fausto. (TSN, 18 April 1991, p.6)
- At this time, Lising was driving the green Lancer with Garcia at the front seat. At the rear of the car were Cochise and Beebom. (Id. at 8)
- Manga, on the other hand, was driving the black car, with Dizon beside him. (Id., at 8)
- After the green Lancer and the black car were parked inside the bodega, Cochise, blind-folded, handcuffed and gagged with several strips of masking tape, was dragged out of the green Lancer by Lising and Dizon towards an area near the toilet. (Id., at 9-10; TSN, 26 April 1991, p.3)
- Beebom, on the other hand, was taken by Manga to another area of the Bodega where she could not see Cochise or hear what was being done to him. (Ibid.)
- At this point in time, Manalili arrived, parked the car on the road outside the bodega and walked inside towards Beebom. (TSN, 18, April 1991, p.11)

- Beebom, seeing Manalili, pleaded, “Uncle, parang awa mo na. Wala kaming kasalanan.” (Ibid.)
- Manalili simply ignored Beebom’s plea for mercy. (Ibid.)
- Meanwhile, Garcia went to the back of the green Lancer, got a spade from the truck compartment, and went out of the bodega. (Ibid). Garcia walked towards the back of the bodega and there, dug a shallow grave. (Exhibit “HH”)
- Lising went to the clothesline area of the bodega, got a length of a laundry wire and some clothes which he tore apart and made into makeshift ropes. (TSN, 18 April 1991, p. 12)
- Garcia then returned to the bodega with the spade still in his hands and approached Cochise. (Id., at 14)
- Lising handed a knife to Garcia, who then stabbed Cochise in the chest. (Ibid.)
- Lising, appearing, dissatisfied, grabbed the knife from Garcia and stabbed Cochise several times in the chest and stomach area, as if telling Garcia how to do it. All this time, Dizon was holding Cochise. (Id., at 14-15)
- Cochise then fell to the ground, mortally wounded. (Ibid.)
- Thereupon, Dizon motioned to Manga to help carry the body of Cochise. Manalili then was left to keep watch over Beebom. (Id., at 16)
- Lising, Dizon, Garcia and Manga brought Cochise to the back of the bodega, into the shallow grave dug by Garcia. The four then covered cochise with soil. (TSN, 26 April 1991, p. 6; Exhibit “MM”)
- They then reported to Manalili for final instructions. The order was for all of them to leave. (TSN, 26 April 1991, p. 18)
- Beebom inquired about Cochise, Lising and Dizon answered that they had released Cochise, and that they would likewise release her. (TSN, 18 April 1991, p. 18; Exhibit “MM”)
- Thus, the five accused left the bodega, Dizon and Manga on board the black car, Manalili in his own car, and Lising, Garcia and Beebom in the green Lancer. (TSN, 18 April 1991, p. 18)
- Later, upon the instructions of Lising, Dizon and Manga took Beebom with them on the black car. (Exhibit “MM”). This was the last time that Beebom was seen alive.
- At around 5:00 o’clock in the morning of the same day, Fausto arrived at her bodega and waited for Lising to arrive. (TSN, 18 April 1991, p. 20)
- About an hour later, Lising arrived on board the Lancer car taken from Cochise. Lising alighted from the Lancer car, proceeded to one of the huts in the bodega where Fausto was staying, and informed Fausto about the taking of the Lancer car. (Id., at 21)
- After a few minutes, Fausto emerged from the hut and instructed a certain Jun Medrano, one of Fausto’s helpers in the bodega, to drive the Lancer car to her house in Maligaya Village, San Fernando, Pampanga, and hide it there. (Id., at 22)
- Pursuant to Fausto’s instruction, Jun Medrano, together with two other helpers of Fausto, Raul Morales, and a certain Nonoy, drove the Lancer car to Fausto’s house and hid it in the “barbelan” area of the house. (Id., at 23-24; Exhibit “Y”)
- Meanwhile, satisfied that his orders had been fully implemented, Manalili paid Lising the P40,000.00 balance of the “contract”, by issuing a Far East Bank check for the said amount to Lising at around 8:00 o’clock in the

morning of 26 April 1990. (Exhibits “K” and “HH”)

- Lising immediately encashed the check and distributed the proceeds among himself and the other accused, Exhibits “K-2” and “MM”)

- The Lancer car taken from Cochise, on the other hand, remained hidden for sometime at the residence of Fausto in Maligaya Village where it was repainted to a light gray color upon the instruction of Fausto. (TSN, 18 April 1991, pp. 26-27; Exhibits “CC”, “CC-1” to “CC-6”)

- After the Lancer car was repainted to light gray, Fausto’s helpers in the bodega, namely, Jun Medrano, Raul Morales, Rudy, Bebot and Arnold, upon Fausto’s instructions, pushed the Lancer car for about fifteen minutes to have its engine started. Thereafter, the Lancer car was driven to Fausto’s bodega. (TSN, 18 April 1991, pp. 28-29)

- Lising and Fausto thereafter started using the Lancer car in going to the bank and other places in San Fernando, Pampanga. (Ibid.)

- The Lancer car was subsequently recovered by the PC/CAPCOM and turned over to the custody of Fiscal Ernesto Bernabe. (Exhibits “CC”, “CC-1” to “CC-6” and “EE”)

- On 25 June 1990, after two months of frantic and exhaustive search made by the Bernabe family, the body of Cochise was found and exhumed from the grave where Cochise was buried by Lising, Garcia Dizon and Manga at the back of Fausto’s bodega in San Fernando, Pampanga. It was determined during an autopsy that Cochise died to multiple stab wounds in his chest and upper stomach. (TSN, 10 April 1991, p. 33; Exhibits “D”, “D-1” “E” and “E-1”

- The next day, also after two months of frantic and exhaustive search made by the Castaños family, the body of Beebom was found and exhumed from a shallow grave about two kilometers from the bodega of Fausto. It was determined during the autopsy that Beebom died of severe hemorrhage, secondary to two stab wounds in the chest. (TSN, 10 April 1991, p. 40; Exhibits “1” and “J”)

- Cochise was 26 years old and Beebom was 22 years old when their lives were untimely ended by the accused. Cochise had just finished his Bachelor of Laws degree from the University of the Philippines and was then reviewing for his bar examinations when he was abducted on 25 April 1990. Beebom, on the other hand, was a graduating Mass Communication student of the University of the Philippines when she was abducted on 25 April 1990. Both Cochise and Beebom excelled in academic and extra-curricular activities, their written works having been published in periodicals and other publications. Cochise and Beebom were in the best of their youth and health at the time of their untimely death. (TSN, 9 August 1991, pp. 4-7; TSN, 23 July 1991, pp. 24-26; Exhibit “II”)

- The Bernabe family, in their attempt to locate Cochise spent a total of P380,000.00. in laying Cochise to his final rest, the Bernabe family spent a total of P632,222.00 for funeral and other expenses. (TSN, 9 August 1991, p. 12; Exhibits “LL”, “LL-1” to “LL-3”)

- The Castaños family, on the other hand, spent a total of P350,000.00 for the funeral services for Beebom. (TSN, 23 July 1991, p. 39)[9]

In their defense, the accused policemen claimed that there was insufficient evidence to sustain their conviction. At the same time, each one had an alibi.

Roberto Lising asserted that on April 25, 1990, he took a leave of absence from office to be able to celebrate his father’s birthday in Arayat, Pampanga and stayed there for the night. His father was presented to corroborate his

assertion.

Enrico Dizon testified that April 25, 1990 was an ordinary working day for him. He left the office at 5:00 p.m. and headed for home at NO. 107 Kamia St., Bgy. Sindalen, San Fernando, Pampanga. In fact, two of his neighbors recounted in court the verbal exchange they had when they saw each other in their neighborhood.

Roberto Manga, meanwhile averred that it was impossible for him to participate in the commission of the crime since he was still nursing his gunshot wounds sustained in an encounter with lawless elements for about a year already.

Garcia and Manalili did not take the witness stand. They opted to rely on their extrajudicial statements executed the previous days manifesting the absence of criminal intent.

On July 1, 1992, the trial court rendered a decision with the following dispositive portion:

WHEREFORE, premises considered, this Court finds accused RODOLFO MANALILI, ROBERTO LISING y CANLAS, FELIMON GARCIA, ROBIN MANGA y QUIMZON and ENRICO DIZON y ESCARIO, GUILTY beyond reasonable doubt of the crime of Double Murder qualified with treachery and aggravated by evidence premeditation and abused of public position by Lising, Manga and Dizon, and hereby sentences each one of them to suffer a penalty of double Reclusion Perpetua with all its accessory penalties provided by law (the death penalty having been abolished by the 1987 Constitution); to pay jointly and severally the heirs of Ernesto Bernabe II;

- (a) P1,000,000.00 as funeral and other expenses;
- (b) P50,000.00 as compensatory damages;
- (c) P500,000.00 as moral damages;
- (d) P2,000,000.00 for Cochise's loss of earning capacity;

The heirs of Ana Lourdes Castaños:

- (a) P350,000.00 for funeral and other expenses;
- (b) P50,000.00 as compensatory damages;
- (c) P500,000.00 as moral damages;

The Court also finds accused Roberto Lising, Enrico Dizon and Robin Manga GUILTY beyond reasonable doubt of the crime of Slight Illegal Detention aggravated by use of a motor vehicle and hereby sentences each one of them to suffer the maximum penalty of Reclusion Temporal with imprisonment from Seventeen (17) years, Four (4) months and one (1) day to Twenty years, and to pay the cost.

Accused LIGAYA FAUSTO who is charged as an accessory after the fact (not accomplice as alleged by the Prosecution), is hereby acquitted for insufficiency of evidence.

Accused RODOLFO MANALILI, ROBERTO LISING, ENRICO DIZON, ROBIN MANGA and FELIMON GARCIA are given full credit of their respective sentences in this case.

With respect to Criminal Case No. Q-15239 for carnapping, all the accused are hereby ACQUITTED of the crime charged, it appearing that the use of the car was done only to facilitate the commission of the crime of Slight Illegal Detention.[10]

In this appeal, the following assignment of errors were made:

Roberto Lising contends that:

I.

THAT THE HONORABLE TRIAL COURT ERRED IN ADMITTING AND CONSIDERING THE STATEMENTS OF RODOLFO MANALILI (EXHS. “HH”, “HH-1” TO “HH-25”) AND THAT OF FELIMON GARCIA (“MM”, “MM-1” TO “MM-14”) ADMISSIBLE AS AGAINST ROBERTO “RAMBO” LISING;

II. THAT THE HONORABLE TRIAL COURT ERRED IN DECLARING RAUL MORALES AS A CREDIBLE WITNESS, ALSO AS AGAINST ROBERTO “RAMBO” LISING;

III. THAT THE HONORABLE TRIAL COURT ERRED, LIKEWISE, IN STATING THAT HEREIN APPELLANT IMMEDIATELY ENCASHED THE CHECK AND DISTRIBUTED THE PROCEEDS AMONG HIMSELF AND THE OTHERS (EXHS. “K-2” AND “MM”);

IV. THAT THE HONORABLE TRIAL COURT ERRED IN DECLARING THE STATEMENT OF THE HEREIN APPELLANT AS ADMISSIBLE IN EVIDENCE AS AGAINST HIM;

V. THAT THE HONORABLE TRIAL COURT ERRED IN DECLARING THAT HEREIN APPELLANT (LISING IS EQUALLY LIABLE FOR KIDNAPPING – THUS, JIVING (SIC) THE PLACE FOR PURPOSES OF JURISDICTION; AND

VI. THAT THE HON. COURT ERRED IN CONVICTING TE HEREIN APPELLANT (ROBERTO LISING) AS ONE OF ALL THE ACCUSED FOR THE CRIMES OF DOUBLE MURDER AND WITH ENRICO DIZON AND ROBIN MANGA FOR SLIGHT ILLEGAL DETENTION BEYOND REASONABLE DOUBT.[11]

Enrico Dizon argues that:

- THE LOWER COURT ERRED IN GRANTING THE MOTION TO DROP THE NAMES OF ROLANDO KHO, ROLANDO FERNANDEZ, NOEMI PANGAN AND JESUS REMOLACIO FROM THE INFORMATION AND ADMIT AMENDED INFORMATION IMPLICATING ACCUSED-APPELLANT ENRICO DIZON DESPITE CLEAR EVIDENCE OF THE PARTICIPATION OF KHO, FERNANDEZ, PANGAN AND REMOLACIO;

- THE LOWER COURT ERRED IN ADOPTING THE PROSECUTION’S VERSION OF STATEMENT OF THE FACTS ALTHOUGH THERE WERE MISLEADING STATEMENTS AS PROVED BY THEIR CONTRADICTIONS TO THE TRANSCRIPTS OF STENOGRAPHIC NOTES, AND AFFIDAVITS PRESENTED;

- THE LOWER COURT GRAVELY ERRED IN NOT CONSIDERING THE PRESUMPTION OF INNOCENCE FOR IT RELIED IN THE WEAKNESS OF THE DEFENSE OF ALIBI, WITHOUT REGARDING THE INCONSISTENCIES IN THE TESTIMONY OF PROSECUTION WITNESS RAUL MORALES AND FROILAN OLIMPIA;

- THE LOWER COURT COMMITTED ERROR WHEN IT GAVE CREDENCE TO THE AFFIDAVITS EXECUTED BY LISING, MANALILI AND GARCIA DESPITE THE FACT THAT THEY WERE NOT PRESENTED AS WITNESSES BEFORE THE LOWER COURT;
- THE LOWER COURT GRAVELY ERRED IN ADJUDGING THE ACCUSED-APPELLANT GUILTY OF THE CRIMINAL ACTS BASED ON THE DECLARATION OF FELIMON GARCIA'S EXTRAJUDICIAL CONFESSION WITHOUT ESTABLISHING FIRST THE CONSPIRACY TO WHICH ACCUSED-APPELLANT DIZON WAS A PART.[12]

Robin Manga asserts that:

- THE LOWER COURT ERRED IN GIVING FULL WEIGHT AND CREDIT ON THE EXTRAJUDICIAL STATEMENT OF CO-ACCUSED RODOLFO MANALILI AND FELIMON GARCIA DESPITE THE FACT THAT THE TWO DID NOT TAKE THE WITNESS STAND NOR THEIR STATEMENTS OFFERED IN EVIDENCE;
- THE LOWER COURT ERRED IN HOLDING THAT THE EXTRAJUDICIAL STATEMENTS OF RODOLFO MANALILI AND FELIMON GARCIA "AFFIRMED CONSPIRACY" AMONG THE ACCUSED-APPELLANTS DESPITE ITS UTTER LACK OF EVIDENTIARY VALUE;
- THE LOWER COURT ERRED IN GIVING FULL WEIGHT AND CREDIT ON THE TESTIMONIES OF RAUL MORALES AND FROILAN OLIMPIA DESPITE THE FACT THAT THE STATEMENTS OF THE TWO ARE REplete WITH INCONSISTENCIES, SELF-CONTRADICTIONS AND ARE HIGHLY IMPROBABLE;
- THE LOWER COURT ERRED IN FINDING THAT FELIMON GARCIA'S NARRATION OF THE ABDUCTION WAS CONSISTENT WITH THE TESTIMONY OF FROILAN OLIMPIA WITH RESPECT TO THE PARTICIPATION OF ACCUSED-APPELLANT ROBIN MANGA DESPITE STATEMENTS BY OLIMPIA THAT HE SAW QUEZON CITY POLICEMEN ROLANDO KHO AND ROLANDO FERNANDEZ AS THE PERSONS WHO ABDUCTED "COCHISE" AND "BEEBOM" IN THE EARLY EVENING OF APRIL 25, 1990 AND DESPITE THE FACT THAT THE EXTRAJUDICIAL STATEMENT FELIMON GARCIA WAS NOT EVEN IDENTIFIED BY THE LATTER DURING THE TRIAL OF THESE CASES;
- THE LOWER COURT ERRED IN CONSIDERING AS EVIDENCE MATTERS OBTAINED IN VIOLATION OF THE CONSTITUTIONAL RIGHT OF THE ACCUSED-APPELLANT MANGA;
- THE LOWER COURT ERRED IN FAILING TO OBSERVE THE PHYSICAL IMPOSSIBILITY OF ACCUSED-APPELLANT MANGA BEING INVOLVED IN THE OFFENSES CHARGED;
- THE LOWER COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT MANGA.[13]

Rodolfo Manalili avers that:

- THE TRIAL COURT GRAVELY ERRED IN GIVING TOTAL CREDIBILITY TO RAUL MORALES AND IN NOT FINDING THAT RAUL MORALES WAS A REHEARSED AND PERJURED WITNESS INSOFAR AS IMPLICATING ACCUSED RODOLFO MANALILI IN THE COMMISSION OF THE CRIME OF DOUBLE MURDER IS CONCERNED;
- THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT ACCUSED RODOLFO MANALILI DID NOT HAVE ANY CRIMINAL INTENT OF DOING AWAY WITH THE LIVES OF ERNESTO BERNABE II AND ANA LOURDES CASTAÑOS AND THAT HE LIKewise DID NOT HAVE ANY MOTIVE WHATSOEVER IN CONSPIRING TO DO SO;

- THE TRIAL COURT GRAVELY ERRED IN NOT CONCLUDING THAT ACCUSED RODOLFO MANALILI NEVER ENTERED INTO A CONSPIRACY TO COMMIT THE CRIME OF DOUBLE MURDER NOR DID HE COMMIT ANY ACT/S ON THE BASIS OF WHICH IT CAN BE INFERRED THAT HE ENTERED INTO SUCH A CONSPIRACY TO COMMIT THE CRIME IMPUTED TO HIM;
- SINCE THERE WAS IN EFFECT SEPARATE TRIAL OF THE SEVERAL ACCUSED WHO WERE EACH REPRESENTED BY SEPARATE LAWYERS AND CONSIDERING THAT CONSPIRACY BETWEEN MANALILI AND HIS CO-ACCUSED HAS NOT BEEN SHOWN BY ANY ACT OR DECLARATION DURING ITS EXISTENCE, THE TRIAL COURT GRAVELY ERRED IN TAKING INTO ACCOUNT THE SWORN STATEMENT OF ROBERTO LISING AS EVIDENCE AGAINST RODOLFO MANALILI TO THE EXTENT THAT IT PURPORTS TO ATTEST TO MANALILI'S INVOLVEMENT IN THE CRIME;
- V. THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING SPECIAL CIRCUMSTANCES OF THE CASE ON THE BASIS OF WHICH IT CAN BE INFERRED THAT ANOTHER PARTY WHO WOULD BE MOST BENEFITED BY DOING AWAY WITH THE LIVES OF THE VICTIMS, WAS BEHIND THE COMMISSION OF DOUBLE MURDER;
- THE TRIAL COURT GRAVELY ERRED IN NOT APPLYING THE WELL-ESTABLISHED PRINCIPLE IN CRIMINAL LAW THAT WHEN THE FACTS AND CIRCUMSTANCES OF THE CASE ARE SUSCEPTIBLE TO TWO REASONABLE INTERPRETATIONS: ONE REASONABLE INTERPRETATION LEADING TO A DECISION OF CONVICTION, AND THE OTHER REASONABLE INTERPRETATION LEADING TO A FINDING OF ACQUITTAL, THEN THE EVIDENCE OF THE PROSECUTION HAS NOT FULFILLED THE STRINGENT REQUIREMENT OF THE LAW OF PROVING THE GUILT OF ACCUSED RODOLFO MANALILI BEYOND DOUBT AND THEREFROM SAID ACCUSED MANALILI IS ENTITLED TO AN ACQUITTAL; AND
- THE LOWER COURT GRAVELY ERRED IN AWARDING INFLATED, UNSUBSTANTIATED, AND SPECULATIVE DAMAGES WHICH ARE NOT RECOVERABLE UNDER EXISTING JURISPRUDENCE.[14]

Felimon Garcia contends that:

- THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT RAUL MORALES WAS A REHEARSED AND PERJURED WITNESS TO MAKE FALSE ASSERTIONS IMPLICATING APPELLANT FELIMON GARCIA IN THE COMMISSION OF THE CRIME OF DOUBLE MURDER;
- SINCE THERE WAS IN EFFECT SEPARATE TRIALS OF THE SEVERAL ACCUSED WHO WERE EACH REPRESENTED BY SEPARATE LAWYERS AND CONSIDERING THAT CONSPIRACY BETWEEN APPELLANT FELIMON GARCIA AND HIS CO-ACCUSED HAS NOT BEEN SHOWN BY ANY ACT OR DECLARATION DURING ITS EXISTENCE, THE TRIAL COURT GRAVELY ERRED IN TAKING INTO ACCOUNT THE SWORN STATEMENT OF ROBERTO LISING AS EVIDENCE AGAINST APPELLANT FELIMON GARCIA;
- THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT APPELLANT FELIMON GARCIA DID NOT HAVE ANY CRIMINAL INTENT NOR MOTIVE WHATSOEVER TO CONSPIRE WITH APPELLANT LISING ET AL TO KILL ERNESTO BERNABE II AND ANA LOURDES CASTAÑOS BOTH OF WHOM APPELLANT GARCIA HAS NEVER KNOWN OR MET BEFORE APRIL 25, 1990;
- THE TRIAL COURT GRAVELY ERRED IN NOT CONCLUDING THAT APPELLANT FELIMON GARCIA PERFORMED THE ACTS ADMITTED BY HIM UNDER THE COMPULSION OF AN

IRRESISTIBLE FORCE AND/OR UNDER THE IMPULSE OF AN UNCONTROLLABLE FEAR OF AN EQUAL OR GREATER INJURY AND THEREFORE EXEMPT FROM CRIMINAL LIABILITY; AND

- EVEN ASSUMING ARGUENDO THAT APPELLANT FELIMON GARCIA IS NOT EXEMPT FROM CRIMINAL LIABILITY, THE TRIAL COURT GRAVELY ERRED IN NOT FINDING HIM GUILTY MERELY AS AN ACCOMPLICE OF THE CRIME OF DOUBLE MURDER AND THEREFORE ENTITLED TO A LOWER PENALTY IN VIEW OF THE PRESENCE OF VOLUNTARY SURRENDER, OBFUSCATION, AND LACK OF INTENTION TO COMMIT SO GRAVE A WRONG, AS MITIGATING CIRCUMSTANCES.[15]

Basically the present appeal is anchored on three issues: (a) the admissibility of the extrajudicial statements of appellants Manalili, Garcia and Lising; (b) the credibility of prosecution witnesses Froilan Olimpia and Raul Morales and the (c) finding of conspiracy among the appellants.

Extrajudicial statements are as a rule, admissible as against their respective declarants, pursuant to the rule that the act, declaration or omission of a party as to a relevant fact may be given in evidence against him. This is based upon the presumption that no man would declare anything against himself, unless such declarations were true. A man's act, conduct and declarations wherever made, provided they be voluntary, are admissible against him, for the reason that it is fair to presume that they correspond with the truth and it is his fault if they are not.[16]

There is no question that their respective extrajudicial statement of Manalili and Garcia were executed voluntarily. They were assisted by their counsel and properly sworn to before a duly authorized officer. They merely relied on their extra-judicial statements and did not take the witness stand during the trial.

Lising, on the other hand, claims that he was coerced and tortured into executing the extrajudicial statement but nothing appears on record that such extrajudicial statement was made under compulsion, duress or violence on his person. Lising did not present himself for physical examination, nor did he file administrative charges against his alleged tormentors which would necessarily buttress the claim of torture in the absence of such evidence. There are in fact indicia of voluntariness in the execution of his extra-judicial statements, to wit: (a) it contains many details and facts which the investigating officer could not have known and could have supplied, without the knowledge and information given by Lising himself; (b) it bears corrections duly initialed by him; (c) it tends to explain or justify his conduct and shift the blame to his co-accused Manalili. Moreover, the claim that Lising was not assisted by counsel is belied by the fact that the signature of his counsel Atty. Yabut appears in all the pages of his extrajudicial statements.

The rule that an extrajudicial statement is evidence only against the person making it, also recognizes various exceptions. One such exception worth noting is the rule that where several extrajudicial statements had been made by several persons charged with an offense and there could have been no collusion with reference to said several confessions, the facts that the statements are in all material respects identical, is confirmatory of the confession of the co-defendants and is admissible against other persons implicated therein.[17] They are also admissible as circumstantial evidence against the person implicated therein to show the probability of the latter's actual participation in the commission of the crime and may likewise serve as corroborative evidence if it is clear from other facts and circumstances that other persons had participated in the perpetration of the crime charged and proved.[18] These are known as "interlocking confessions."

No doubt that the statements were independently executed and rather identical with each other in their material details. There are also distinct similarities in the narration of events leading to the killings of Cochise and Beebom.

Manalili and Garcia's statements reveal that Manalili wanted to effect the arrest of Robert Herrera; that he asked help from Garcia if the latter knew of policemen who could do the job for the promised consideration of P50,000.00; that a downpayment of P2,000.00 was made; that Manalili was informed that Robert Herrera and Joy Ortega were arrested; that Manalili together with Garcia and Nabua proceeded to Valle Verde Motel; that they were met by Dizon and Manga at the motel and were told that Herrera was inside the room; that upon discovery that Lising's group had taken the wrong person and recognized Beebom's voice, Manalili pleaded to the group that the victim be released, assuring Lising that the balance P40,000.00 would still be paid; that Lising and his group refused but relented upon Manalili's persistence; that Manalili left for Manila but instructed Garcia to stay behind and ensure the release of the victims; and that the next day Lising went to his office and claimed the balance to which Manalili issued the corresponding check.

Garcia added that after Manalili had left, Lising told him to bring Cochise and Beebom to the warehouse owned by Ligaya where Cochise was killed. Thereafter, they forcibly took Beebom into the car and proceeded to Brgy. San Agustin.

Likewise, we find Lising's statement as corroborative evidence against the others. Except as to that portion where he exculpates himself from any liability stating that it was Manalili and Garcia who actually stabbed Cochise in the warehouse and that he was merely a lookout, Lising's statement is identical as to the other material facts, namely, that Cochise and Beebom were brought to the Valle Verde Motel, blindfolded where he met Manalili and Garcia; that they were brought to the warehouse on board a green box type Lancer car, where Cochise was killed; that Beebom was brought to Brgy. San Agustin where she was eventually killed; that he should take care of the green box type Lancer car and was given P40,000.00 in check.

Nonetheless, the trial court's decision, in convicting all the accused was based not on the aforesaid extrajudicial statements of the accused alone but mainly on the eyewitness account of the two witnesses, Froilan Olimpia and Raul Morales, which the trial court gave weight and credence as bearing the "chime of truth and honesty." Well-established is the rule that the trial court's evaluation of the credit-worthiness of the testimony given before it by witnesses should be accorded great respect.[19] Froilan Olimpia, a security guard of the Rotonda Wine Station, an establishment adjacent to the Dayrit's Ham and Burger House who witnessed the abduction of Cochise and Beebom in front of the said restaurant.

He testified that he saw three men in a black car without a license plate drive to Dayrit's Ham and Burger House and park behind the green Lancer car. When the two men alighted from the car, they introduced themselves as policemen to the by-standers, one carrying a .45 caliber firearm in his holster and the other carrying a long firearm. The two men approached the green Lancer car and handcuffed its driver. Olimpia only heard the man say: "Bakit?" He later noticed that the woman was already seated at the back of the car. These two men drove the green Lancer car which was followed by the black car. When asked to identify the three men, Olimpia unhesitatingly identified Dizon and Manga.

Q.

Mr. Witness, on April 25, 1990, where were you employed?

A.

Security Guard of Nationwide Security & Investigation Agency.

Q.

You said you were employed with Nationwide Security & Investigation Agency, as Security Guard on said date, where were you assigned as security guard?

A.

At Rotonda Wine Station, sir.

Q.

Where is this Rotonda Wine Station located?

A.

At Timog Ave., sir.

Q.

What city?

A.

Quezon City, sir.

Q.

You said you were employed as security guard of Rotonda Wine Station, Timog Ave., Quezon City, do you have proof to show that you were a security guard of said Rotonda Wine Station on April 25, 1990?

A.

I have, sir, but it is filed with the agency.

Q.

This Rotonda Wine Station, what establishments are beside this establishment, and let us talk first on the left and then right?

A.

The left side of Rotonda Wine Station is the Dayrit Hamburger House and the right is a drugstore.

Q.

What was your tour of duty on April 25, 1990?

A.

12:00 noon to 12:00 midnight, sir.

Q.

And did you report for duty on said date?

A.

Yes, sir.

Q.

On or about 7:00 to 7:30 o'clock in the evening of April 25, 1990, what particular portion of Rotonda Wine Station were you posted?

A.

I was at the door, sir.

Q.

Door of what, front or back?

A.

Front door of the Rotonda Wine Station, sir.

Q.

When you said you were at the front door, inside the building or outside?

A.

Outside of the door, sir.

Q.

You mentioned a while ago that on the left side of the Rotonda Wine Station where were posted is the Dayrit Hamburger House, was there a security guard there?

A.

Yes, sir.

Q.

And do you know him?

A.

Yes, sir.

Q.

What is his name?

A.

Anastacio de la Cruz, sir.

Q.

You stated that at 7:00 to 7:30 in the evening of April 25, 1990, you positioned yourself in front or outside the door of Rotonda Wine Station, did you notice anything unusual while you were posting there?

A.

Yes, sir, there was.

Q.

What was that unusual incident that took place, if any?

A.

There was a vehicle parking in front of Dayrit Hamburger house.

Q.

What kind of a vehicle parked there?

A.

Green Lancer, car, box type.

Q.

Where was it parked particularly?

A.

In front of Dayrit Hamburger house, at the side of the street.

Q.

Did you notice the passenger of that green Lancer car?

A.

No, I did not know them, sir.

Q.

But did you have the occasion to look and see them?

A.

Yes, sir.

Q.

How many were they?

A.

Two, sir.

Q.

Were they male and female?

A.

Yes, sir, one man a and one woman.

Q.

You said you noticed the car with two persons boarding it, what happened after the vehicle parked on the side of the street in front of the Dayrit Hamburger house?

A.

After they had parked their vehicle, I noticed that another car parked behind that green Lancer car without any plate number.

Q.

Did you notice what kind of a car was that which parked behind the green Lancer car?

A.

I noticed it was a black car without plate number but I did not notice the make.

Q.

What happened after the black car parked behind the green Lancer car?

A.

Two men from the black car alighted.

Q.

What did the two men do after they alighted?

A.

After they alighted they announced and introduced themselves that they were policemen and they went towards the green Lancer car.

Q.

You said they introduced themselves as policemen, to whom?

A.

To the people around the vicinity, to the by-standers.

Q.

When the two men who introduced themselves as policemen, did you notice if they were armed?

A.

Yes, sir.

Q.

Please inform us what arm or weapon did they carry?

A.

The other one was carrying a .45 firearm on his holster and the other one was carrying a long firearm, I do not know what kind of firearm that long firearm was.

Q.

This person carrying 45 firearm, could you still recall him or his figure or feature?

A.

If I see him again, I could recognize him.

Q.

But can you describe him before this Court?

A.

Yes, sir, he is tall, a little bit dark complexion and with a little mustache.

Q.

You said that if you see that person again, you can recognize him. Will you please look around the courtroom and point to him if he is now inside?

A.

Yes, he is here, sir.

Q.

If he is here, will you please point to him?

A.

Yes, I can point to him.

Q.

Will you please go down from the witness stand, go to him and tap him on his shoulder?

A.

(Witness went down from the witness stand, went to the person and tap the shoulder, who when asked of his name answered as ENRICO DIZON).

Q.

Go back to the witness stand.

ATTY. CRESCINI:

May we make it of record, Your Honor, that at the time the witness was asked to identify Enrico Dizon, there are many people, at least one hundred in number, standing inside the courtroom closely to each other.

FISCAL:

I would like to adopt the same manifestation, Your Honor.

Q.

You have identified the person with 45 caliber firearm, the person who was carrying a long firearm, can you still recognize him or can you remember his feature?

A.

If I could see him again, I can recognize him.

Q.

You said that you can see that person with long firearm again, you can recognize him, will you look around the courtroom and tell us if that person you are referring to is here?

A.

Yes, he is here.

Q.

Will you please point to him?

A.

(Witness pointing to a person inside the courtroom who when asked of his name answered as ROBIN MANGA).

Q.

Now, that you identified the two armed men who alighted from the black car and introduced themselves as policemen, what did these two men do after that?

A.

They went towards the parked green Lancer car.

Q.

And what did they do when they went towards the green Lancer car?

A.

They immediately handcuffed the man driving the green Lancer car.

Q.

This person who was handcuffed, were you able to look and see him?

A.

Yes, sir.

Q.

Can you still recognize him if you see him again?

A.

Yes, sir, I can recognize him if I see him again.

Q.

What about a picture, if you are shown a picture of that man who was handcuffed, could you still be able to identify him?

A.

Yes, sir, I can.

Q.

I am showing to you a picture marked as Exh. "X-4" please look at this picture and tell us if you could recognize this picture?

A.

Yes, sir, I know this person.

Q.

Who is this person?

A.

He is Ernesto Bernabe II, sir.

Q.

What relation has this person in this picture and the person who was handcuffed in the evening of April 25, 1990 at the time you saw him?

A.

I know, sir, this person in the picture and the one who was handcuffed refer to one and the same person.

Q.

You said that Ernesto Bernabe was handcuffed, you know where was his companion at the time, who was a woman?

A.

I noticed she was already inside the car.

Q.

What car are you referring, the green Lancer car or the black car without plate number?

A.

The green Lancer car, sir.

Q.

You said you saw the woman, were you able to look and see her that evening?

A.

Yes, sir.

Q.

Would you still be able to identify her if you see her again?

A.

Yes, sir.

Q.

I am showing to Exh. "X-4" will you look at this picture, and tell us what relation has this person in this picture to the one who was together with the man who was handcuffed?

A.

She is the woman I am referring to, sir, whom I saw inside the green Lancer, they are one and the same.

Q.

You said you saw the man whom you identified as Ernesto Bernabe being handcuffed by the two policeman, how far were you from them?

A.

Five armslength (sic), sir.

Q.

By the way, this front of Dayrit Hamburger house and this Rotonda Wine Store, are they lighted at night?

A.

Yes, sir.

Q.

What kind of light illuminates the area?

A.

Mercury lamp, sir.

Q.

How many lights are there?

A.

Many, sir.

Q.

You said there were lights, in the area during nighttime, can you describe to us from your point of comparison in daytime whether it is bright or not more particularly at the time of the incident in question?

A.

It was bright just like daytime, sir.[20]

As to the killing of the two victims, Raul Morales' testimony about what transpired in the warehouse in the morning of April 26, 1990 satisfied the trial court beyond reasonable doubt, as being consistent and credible, sufficient to convict all the accused for the crime of murder. He testified positively, that on that fateful morning, two cars entered the warehouse after he opened the gate. Lising and Garcia alighted from the green Lancer car and brought out from the backseat Cochise and Beebom. The other black car carried Dizon and Manga. Soon after, Manalili entered the gate which was left open by Lising, and stood beside Beebom. Cochise, whose hands were tied with a wire was brought to an area far from Beebom's view. He was stabbed by Garcia, and then by Lising. After killing Cochise, the four men carried him out of the warehouse while Manalili stayed with Beebom.

The trial court was even more convinced about the witnesses' credibility after conducting an ocular inspection of the scene of the crime.

ATTY. LLORENTE:

Q.

Now, Mr. Morales, from yesterday's hearing, you mentioned that at about 2:090, April 26, you were awakened by a sound of a motor vehicle and somebody was knocking. Do you recall having stated that yesterday?

A.

Yes, I remember that, sir.

Q. Now, apart from the sound of the motor vehicle and the knock at the door, what else do you recall?

A. Somebody called for Aida, sir.

Q. What else?

A. I heard somebody said "Aida, you open the door" and she told me "just open the door, Sir.

Q. And what did you do?

A. I opened the door, Sir.

xxx.

Q. After the gate was opened, what happened?

A. Two (2) cars got inside, Sir.

Q. Can you describe the first car that entered he gate.

A. The first one that got inside was colored green, Sir.

Q. Do you know the make model or kind of vehicle that is colored green?

A. It was a Lancer car, Sir.

Q. Did you notice also who was driving?

A. Yes, I saw, Sir.

Q. Who?

A. It was Roberto Lising, Sir.

Q. Was there anybody else inside the car?

A. There was, Sir.

Q. Who were inside that car?

A. One was in front and two were at the back seat, Sir.

Q. The one in front, do you know who was that?

A. Yes, Sir.

Q. Who?

A. Felimon Garcia, Sir.

Q. Was that the first time that you met this person?

A. Felimon Garcia?

ATTY. LLORENTE:

Yes.

A. That was the third time, Sir.

Q. Why do you know Felimon Garcia?

A. Because he is a cousin of Ligaya Fausto, Sir.

Q. Can you please look around the Courtroom and tell us if you can point to this Felimon Garcia and if you can, please do.

That man, Sir.

(Witness pointing to a man in white t-shirt who when asked answered by the name of Felimon Garcia).

Q. What about the two (2) passengers at the back of the Lancer car, who were they?

A. There was one woman and one man but I don't know their names, Sir.

Q. Let's go to the man. Did you see his condition? Physical condition, his appearance?

A. Tall, medium built, good-looking and hairy on the arms. He was wearing white t-shirt and was in shorts, Sir.

Q. What about the condition under which this person was seated at the back of the car, can you describe that?

A. I was not able to observe how he was seated, all I know is that I saw him when he went out of the car, Sir.

Q. What about the other passengers, the woman passenger. Can you describe her.

A. She was medium built, she was beautiful and fair complexioned "puti".

Q. Now, let's go to the second car. Did you notice the driver of the second car?

A. Yes, sir.

Q. Did you recognize this person?

A. Yes, Sir.

Q. Would you be able to identify him?

A. Yes, Sir.

Q. Can you please look around if this person driving the second car is in this Courtroom and if so, please point to him.

(witness pointing to a man in white shirt who when asked answered by the name of ROBIN MANGA).

Q. Was there anybody else inside the second car aside from the driver?

A. There was, Sir.

Q. Would you be able to identify that person?

A. Yes, Sir.

Q. Can you again look around the Courtroom and tell us if that person is present and if so, please point to him?

A. (Witness pointing a man in stripe shirt who when asked answered by the name of Enrico Dizon).

Q. Now, the two (2) cars having entered the premises, could you please tell us what happened with these two (2) cars after entering the premises?

A. I saw Roberto Lising went behind the place of our sleeping quarters and got a wire, Sir.

xxx

Q. How did that woman reach that portion of the Lancer car? Can you describe that?

A. She was brought to that portion by he companion of Rambo, Sir

Q. Who in particular?

A. That man, Sir, (witness pointing to accused Robin Manga).

Q. What about the man, how was he brought to that portion which you have identified from the Lancer car?

A. It was Roberto Lising who brought him there, Sir.

Q. All by himself?

A. They were two (2), Sir.

Q. Who's the second aside from Mr. Lising?

A. (witness pointing to accused Enrico Dizon).

Q. After the man and the woman were placed in that position as you described, what happened?

A. Felimon Garcia came out and he was bringing with him a spade (pala), Sir.

Q. Did you notice where Felimon Garcia got that spade or pala?

A. Yes, Sir.

Q. Where?

A. They got it from the Lancer car, Sir.

Q. In what particular portion of the Lancer car?

A. At the back compartment of the car, Sir.

Q. Incidentally, Mr. Morales, what happened to the gate? Who closed the gate?

A. It was they who closed the gate, Sir.

Q. Did anybody else arrive?

A. Yes, there were, Sir.

Q. Who?

(witness pointing to accused Rodolfo Manalili) witness pointed to a man in eyeglasses who when asked answered by the name of Rodolfo Manalili.

Q. Now, this person that you said arrived, how did he arrive?

A. When he arrive, he went direct to the woman and talked with the woman, Sir.

Q. Did you hear any conversation between that man as you identified as accused Manalili to the woman that you pointed to here in the sketch?

A. I only heard "Don't harm us. We have done no wrong".

COURT:

Who said that?

A It was the woman, Your Honor.

Q Did you hear how the woman address this man that you have identified as accused Manalili?

A Yes, Sir.

Q How?

A "Uncle, please pity us. We have done no wrong".

ATTY. LLORENTE:

Your Honor please, we heard the witness stating this time in tagalog and could be corrected by the counsels for the accused. May we respectfully request, Your Honor, that that particular portion stated by the witness in tagalog be placed on record also in tagalog.

COURT: Place that on record.

A "Uncle, parang awa mo naman, wala naman kaming kasalanan".

Q Did you hear Mr. Manalili say anything when you heard this plea by the woman?

A I heard nothing, Sir.

Q At that time when this plea was being made, what happened to the person beside the woman? I am referring to the accused that you have identified as Manga. What happened to him?

A He was tying her with a wire. Sir.

Q Now, let's go back to the man. What happened to him?

A Also, he was tied with a wire, Sir.

Q Let's talk about accused Lising. Before this man that you have identified was being tied with the wire, what did Mr. Lising do?

A He got wire, Sir.

Q Where?

A From here, Sir.

ATTY. LLORENTE:

For the record, Your Honor, witness pointed to the clothesline wire that he previously drew that were attached to hut no. 1.

Q What else did Mr. Using do apart from getting ...securing those laundry wires?

A They got the handcuff and then tied them with the wire, Sir.

Q From this area where Mr. Lising got these laundry wires, where did he go?

A He went towards the man, Sir.

Q And when he was beside the man, what did he do?

A He took off the handcuff of the man and tied the man with the wire, Sir.

Q Did he remove the handcuff, tied the man with the wire all by himself?

A They were two (2). Sir.

Q Who is the other person helping Lising? .

A (witness pointed to Enrico Dizon)

Q Could you demonstrate to us how were the hands of this man tied with the laundry wire?

A Yes, Sir.

Q Please show us, Mr. Morales.

(witness placing his two arms behind his waist with crossed wrists)

Q Mr. Morales, for clarification. In the event that you know subsequently, much, much later, did you ever come to know who was that man tied with his hands at the back that you have just demonstrated? Did you ever come to know his name later?

A Yes, Sir.

Q Who?

A Cochise and Beebom, Sir.

Q What about Beebom? You mentioned Beebom. Who is this Beebom? Who is that Beebom in relation to the person that you have described in that area present at that time?

A. They were sweethearts, Sir.

Q. Let me just refer you to the woman that was brought out of the green car, Lancer car. Did you ever come to know his name later on?

A. When I read it from the newspaper, Sir.

Q. And what was the name that you were able to read from the paper that made you identified that woman from the Lancer car?

A. Beebom, Sir.

Q. What is the complete name?

A. Beebom Castaños, Sir.

Q. What about the man. Did you also get his complete name.

A. Yes, Sir.

Q. What is his complete name?

A. Cochise Bernabe, Sir.

Q. Now, after this man that you have just identified as Cochise Bernabe, after his hands were tied at the back, what else did Mr. Lising and Mr. Dizon do with this man?

A. Felimon went inside the bodega, Sir.

Q. And what did Felimon do?

A. After that, he went towards Lising, Sir.

Q. And when Felimon approached Lising, what happened?

A. Felimon was given a knife, Sir. (Witness in the vernacular said “kutsilyo”)

Q. What did Felimon do with the knife?

A. They went towards the man, Sir.

Q. And what happened?

A. Then he stabbed the man once, Sir.

Q. How? Can you demonstrate?

A. Yes, Sir.

ATTY. LLORENTE:

Please do.

(witness demonstrating by placing his left hand on the height of his shoulder and making a thrust by his left hand forward).

Q. What else happened after what you had demonstrated happened?

A. Rambo grabbed and took the knife from Felimon, Sir.

Q. And what did Rambo do with the knife?

A. He also stabbed the man, Sir.

ATTY. LLORENTE:

Can you demonstrate to us how did he do this?

A. Yes, sir. (witness demonstrating by putting his left hand forward at the height of his shoulder and making a forward thrust by his right hand several times).

Q. Did you notice what portion of Cochise was stabbed when Lising was doing this?

A. Yes, Sir.

Q. Where?

A. Inside the bodega, Sir. "Sa may bodega".

xxx.[21]

The defense, however, would discredit the of Raul Morales alleging that he was not a credible witness considering that there were inconsistencies and improbabilities in his testimony. To them, he was a rehearsed witness, since he was taken from the NBI to the residence of Governor Remulla's son, a good friend of Cochise, as sanctuary during the trial of this case.

Some of the inconsistencies pointed out are as follows: (1) in the sworn statement, Morales claimed that the black car driven by Lising entered the compound ahead followed by the green car driven by Garcia while he stated in his testimony in court that the green Lancer car was first to enter, driven by Lising with Garcia in the passenger seat followed by the black car with Manga and Dizon on board; (2) in his statement, Morales indicated that he did not see the actual killing of Cochise since the victim was brought out, while he testified in court that Garcia and Lising stabbed the victim inside the compound; (3) Morales made mention of a total of five persons, including the two victims, in the early morning of April 26, while in court, he identified the five accused seen with the two victims.

It has been held that inconsistencies and discrepancies in the testimony referring to minor details and not upon the basic aspect of the crime do not impair the witness' credibility.[22] These inconsistencies even tend to strengthen, rather than weaken, the credibility of witnesses as they negate any suspicion of a rehearsed testimony.[23]

The defense finds it also improbable for Morales to have witnessed the events at such a vantage point from the steps of the hut, since the perpetrators of a crime would not unnecessarily expose themselves in the committing the act to prevent possible identification.

Obviously, it never occurred to Lising at the time that Morale, who was under his control and who was afraid of him, would ever testify against him.

Manalili makes capital of the fact that Morales did not mention him at all in his prior sworn statement as being present at the scene of the crime. For Manalili, the omission of his name was a significant development as it appeared improbable that a vital witness will miss out an alleged perpetrator if indeed he was present at the scene of the crime.

Raul Morales himself admitted later on that there were omissions in his sworn statement made before the CAPCOM because he was afraid of his employer Lising and his companions. Understandably, he was reluctant to volunteer all the information about the killing for fear that he would suffer the same fate of Cochise and Beebom. The initial reluctance of witness to volunteer information about a criminal case and their unwillingness to be involved in the criminal investigation is of common knowledge and has been judicially declared as insufficient to affect credibility.[24] Besides, at that time, Raul Morales was merely concerned with bringing out his story without really paying particular attention to the details. He related that his employer Lising and companions brought a man and a woman to their warehouse and killed them both. He saw Cochise's face on the papers and recognized him to be the man whom Lising's group killed. Morales only mentioned Lising and Garcia's names in his sworn statement because they were the only ones known to him. Such omission and discrepancies should not be taken against him. It bears emphasis that a sworn statement or an affidavit does not purport to be a complete compendium of the details of the event narrated by the affiant.[25] It is a matter of judicial experience that a sworn statement being taken ex parte is almost always incomplete and often and often inaccurate. Thus, discrepancies between the statements of the affiant in his sworn statement and those made on the witness stand do not necessarily discredit him.[26] There is no rule of evidence to the effect that omission of certain particulars in an affidavit or sworn statement would estop an affiant in making an elaboration thereof during the trial.[27] Whenever there is an inconsistency between the affidavit and testimony of the witness, the latter commands greater weight.[28]

Roberto Lising discredits Raul Morales as having a motive in implicating him to the crime since "he quelled a rally staged by Morales who was the most arrogant and stubborn of Fausto's employees, seeking an increase in pay." As pahinante in their LPG business, Morales, according to Lising, was oftentimes reprimanded for not doing his job well and held responsible for lost gas tanks.

The motive imputed to Morales, a mere pahinante, if he were arrogant and stubborn, would be tolerated by Lising, the live-in partner of Fausto.

By and large, the defenses raised by the accused do not persuade us. When it comes to the issue of credibility of the witness, appellate courts give much weight and respect to the findings of the trial court since the trial court is in the better position to examine real evidence as well as observe the demeanor of the witness.[29] With the eyewitnesses' account of Froilan Olimpia and Raul Morales, the culpability of the accused for the crimes charged have been established.

This brings us to the third issue of whether or not there was conspiracy.

Conspiracy is a unity of purpose and intention in the commission of a crime.[30] Where two or more persons come to an agreement concerning the commission of a felony and decide to commit it then conspiracy exists.

While direct evidence is not necessary, conspiracy may be inferred from and proven by acts of the accused themselves when during and after said acts point to a joint purpose and design, concerted action and community of interest.[31]

Undoubtedly, the trial court did not err in finding the existence of conspiracy in this case. With the interlocking confessions of Manalili, Garcia and Lising, the group came to an agreement to effect the arrest of Robert Herrera for a considerable sum of P50,000.00. The stake-out at the Castaños residence, the tailing of the car, the abduction at Dayrit's Ham and Burger Restaurant and the detention in the Valle Verde Motel and the subsequent killing of the two victims all show that all the accused acted in unison and cooperated with each other towards the accomplishment of a common criminal design. Where conspiracy is established, the act of one is the act of all.

Garcia, for his part, prays that his liability be mitigated on grounds of lack of intent or motive, acts made under the compulsion of an irresistible force, and voluntary surrender, which if considered would make him merely an accomplice to the crime. Unfortunately, these defenses and unavailing.

To be exempt from criminal liability, a person invoking irresistible force or uncontrollable fear must show that the force exerted was such that it reduced him to a mere instrument who acted not only without will but against his will.[32] That compulsion must be of some character as to leave the accused no opportunity for self-defense in equal combat or for escape.[33]

Garcia's participation and presence from the time the abduction was hatched, up to the killing of the victims is undisputed. He was very well aware of Manalili's plans. He was instrumental in introducing Lising to Manalili. Likewise, Lising's intentions to silence both Cochise and Beebom at the end upon realizing an alleged mistake was known to him. He did not do anything to deter the commission or to report the crimes immediately thereafter. In fact, he stated that he and Lising saw each other after the incident but never mentioned anything about it, which only goes to show their intention of concealing the crime. Only after several months of being hunted, did he send feelers for this surrender.

Where conspiracy is established, the precise modality or extent of participation of each individual conspirator becomes secondary since the act of one is the act of all.[34] The degree of actual participation in the commission of crime is immaterial. In *People v. Degoma*, the Court explained:

x x x. One who joins a criminal conspiracy in effect adopts as his own the criminal designs of his co-conspirators; he merges his will into the common felonious intent. A person who embraces a criminal conspiracy is properly held to have cast his lot with his fellow conspirators and to have taken his chances that things may go awry and that the offended party may resist or third persons may get killed in the course of implementing the basic criminal design. To free himself from such criminal liability, the law requires some overt act on the part of the conspirator, to seek to prevent commission of the second or related felony or to abandon or dissociate himself from the conspiracy to commit the initial felony. (*People v. Salvador*, 163 SCRA 574, 580-582 [1988]; *People v. Bazar*, 162 SCRA 609, 617 [1988]; *People v. Escobar*, 157 SCRA 541 567 [1988]; *People v. Pelagio*, 20 SCRA 153, 159-160 [1967]) (Italics supplied).[35]

For the same reasons. Manalili can not likewise be exonerated from the crime. We have examined carefully the arguments of the Solicitor General in urging Manalili's acquittal, but the facts and circumstances surrounding the case do not support his stand.

We find it difficult to accept Manalili's contention that he had contracted the services of policemen to effect the "legal arrest" of Robert Herrera, the main suspect in the killing of his brother, Delfin Manalili. Equally preposterous is his assertion that upon arriving at the Valle Verde Hotel in San Fernando, Pampanga, he realized there was a mistake in the identities of the persons arrested, so he insisted that they be released. Neither is there

factual basis to his claim that he had every reason to protect the life of Beebom, in particular, since the latter is a principal witness against Robert Herrera, the suspect in the shooting of his brother.

In the first place, why did he take it upon himself to employ persons unknown to him to effect the “arrest” of Herrera? The warrant of arrest of Herrera, if one was really issued, was never presented in evidence. In the second place, the surreptitious meeting of Manalili with Lising arranged by Garcia, the surveillance or stake out of the Castaños’ residence, the manner of abduction where the victims were blindfolded, handcuffed and gagged at Valle Verde Motel, cannot certainly be considered as acts in the regular performance of their duties as policemen. Thirdly, if it was true that Manalili just wanted the arrest of Robert Herrera, why did he have to seek the assistance of Pampanga policemen? It would have been more logical and expedient to have utilized the NBI or Quezon City Police especially when the alleged warrant of arrest was issued by a Quezon City court. After all, it was not difficult to locate Robert Herrera as he was reportedly frequenting the Castaños residence in Quezon City. Fourthly, it does not stand to reason why the victims were taken to Pampanga after allegedly being arrested in Quezon City. It would have been more cogent for the appellants to have delivered the victims to the nearest station of the Quezon City Police Department considering that the warrant of arrest was allegedly issued by a Quezon city court. If arrest was really in the minds of the accused, why did they hole-up with the victims in a motel when they arrived in Pampanga? Finally, if they were bent on legally arresting one Roberto Herrera, it was not necessary for them to also take the woman companion of the person they mistook as Herrera.

All these only shows that Manalili had premeditated in his mind a more sinister plot than merely effecting a “legal arrest.”

It is an unmitigated absurdity for Manalili to pretend that upon his realization of the mistake in their “arrest,” he insisted upon the release of the victims since he had every reason to keep Beebom alive. If he had just a bit of concern for Beebom’s safety, why did Manalili leave for Manila without bringing her and Cochise with him to make sure that no harm would befall them, knowingly full well of Lising’s resolve just revealed to him to silence both victims? What should be nearer the truth in that Beebom and Cochise became aware of Manalili’s presence at the motel together with the other accused and this was the added reason why the two had to be eliminated, to do away with having to explain why he was at the scene. His pretension that he wanted to keep Beebom from harm’s way because she was to have testified in the prosecution of his brother brings hollow. It cannot be assumed that had she lived she would have testified in court and pointed to Robert Herrera as the killer of Manalili’s brother.

In any case, assuming the remote possibility, the mistake in the identity of the victims does not exonerate Manalili pursuant to the rule that one who performs a criminal act should be held liable for the act and for all its consequences although the victim was not the person whom the fellow intended to injure.[36]

We are reminded of the rule that the conviction must not rest on the weakness of the defense but on the strength of the prosecution’s evidence. In the instant case, apart from its interlocking sworn statements of appellants, Raul Morales’ positive testimony that he saw Manalili enter the bodega, and stand beside Beebom, while Cochise was being killed, convinces us with moral certainty that Manalili is equally guilty of the crime charged. His presence in the warehouse clearly belies his claim that from the motel, he left for Manila already. As against the positive testimony and identification, mere denials of the accused cannot prevail to overcome conviction by the court.[37] The inaction of Manalili where he could have prevented the killings only reveal his complicity to the crime. Manalili is certainly part of a complete whole without whom there would be no Cochise-Beebom double murder case.

Furthermore, the decision of the trial court exonerating Manalili and Garcia for the crime of Kidnapping and finding the rest of the accused guilty for the crime of Slight Illegal Detention only does not escape us. There being

conspiracy, all the accused should be equally guilty for the crimes as charged. Unfortunately, we can no longer convict Manalili and Garcia for Kidnapping in consonance with the constitutional right against double jeopardy. Nonetheless, they stand to suffer the penalty of Reclusion Perpetua for the double murder. The crime of Slight Illegal Detention should be qualified to Serious Illegal detention under Article 267 of the Revised Penal Code considering that a female victim was involved.

WHEREFORE, this Court hereby renders judgment as follows:

- The decision of the lower court finding accused Rodolfo Manalili, Roberto “Rambo” Lising, Felimon Garcia, Robin Q. Manga and Enrico Dizon guilty beyond reasonable doubt of the crime of double murder, including their civil liability is hereby AFFIRMED in toto, and

- The decision of the lower court finding accused Roberto “Rambo” Lising, Enrico Dizon, and Robin Manga guilty of the crime of slight illegal detention aggravated by the use of motor vehicle is hereby MODIFIED, in that the said accused are hereby declared guilty of the crime of Kidnapping under Article 267 (4) of the Revised Penal Code, and are hereby sentenced to suffer the penalty of reclusion perpetua.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, and Vitug, JJ., concur.

[*] (Called Vic Lisboa by Manalili), see Decision, p. 9, Rollo, p. 60.

[1] Exhibit “N”.

[2] Brief for Rodolfo Manalili, NBI Report, Annex II, p. 6.

[3] Id., at 8-9.

[4] Id., at 9-10.

[5] Dated January 28, 1991.

[6] Rollo, pp. 14-15.

[7] Dated January 24, 1991.

[8] Rollo, pp. 16-17.

[9] Rollo, pp. 52-59.

[10] Id., at 72.

[11] Id., at 214.

[12] Id., at 336.

[13] Id., at 151.

[14] Id., at 264.

[15] Id., at 306.

[16] Evidence, Vicente Francisco, 1990 ed., p. 305.

[17] Evidence, supra, p. 487.

[18] *People v. Encipido*, 146 SCRA 478 (1986); *People v. Domondon*, 43 SCRA 486 (1972); *People v. Sta. Maria*, 15 SCRA 222 (1965).

[19] *People v. Machete*, 231 SCRA 272 (1994).

[20] TSN, May 27, 1991, pp. 5-9.

[21] TSN, April 18, 1991.

[22] *People v. Salamat*, 225 SCRA 499 (1993).

[23] *People v. Ultimas*, 239 SCRA 362 (1994)

[24] *People v. Gundran*, 228 SCRA 583 (1993).

[25] *People v. Gabas*, 233 SCRA 77 (1994)

[26] *People v. Calegan*, 233 SCRA 537 (1994); *People v. Manuel*, 236 SCRA 545 (1994).

[27] *People v. Gabas*, *supra*.

[28] *People v. Ponayo*, 235 SCRA 226 (1994).

[29] *People v. Camaddo*, 217 SCRA 162 (1994).

[30] *People v. Mallari*, 212 SCRA 777 (1992).

[31] *People v. Cadevida*, 219 SCRA 218 (1993).

[32] *People v. Loreno*, 130 SCRA 311 (1984).

[33] *People v. De los Reyes*, 215 SCRA 63 (1992).

[34] *People v. De Roxas*, 241 SCRA 369 (1995).

[35] 209 SCRA 266 (1992).

[36] Article 4, Revised Penal Code.

[37] *People v. Salison, Jr.*, 253 SCRA 758 (1996)

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