

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO MEJIA Y VILLAFANIA, EDWIN BENITO, PEDRO PARAAN, AND JOSEPH FABITO, ACCUSED-APPELLANTS.*G.R. Nos. 118940-41 and 119407. July 07, 1997*

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-118940-41/>**DAVIDE, JR., J.:**

In the evening of 10 March 1994, along the expressway at Barangay Ventinilla, Sta. Barbara, Pangasinan, several persons on board a passenger jeepney driven by Teofilo Landingin attacked the latter and a passenger, Virgilio Catugas, thereby inflicting upon them multiple stab wounds. Landingin was pulled out from his seat and dumped on the shoulder of the road. One of the attackers took the wheel of the jeepney and drove away. Catugas was thrown out to the middle of the road when the jeepney started to move away. Landingin died as a consequence of the injuries he sustained. Catugas survived.

Held to account for the above acts were Gregorio Mejia, Edwin Benito, Pedro Paraan, Joseph Fabito, Romulo Calimquim, one alias Dennis, Alex Mamaril, one alias Mondragon, and another unidentified person. Mejia and Benito were taken into police custody a few hours after the incident; Paraan, the following day; and Fabito, five days after. Calimquim was found dead three days after the incident in question, while the others have remained at large. Three separate criminal complaints for murder,[1] frustrated murder,[2] and violation of R.A. No. 6539 (Anti Carnapping Act of 1992, as amended)[3] were filed against them with the Municipal Trial Court of Sta. Barbara, Pangasinan.

Despite service on them of subpoenas requiring submission of counter-affidavits, accused Mejia, Benito, Paraan, and Fabito did not submit their counter-affidavits.

On 9 May 1994, Judge Lilia C. Espanol issued an order[4] declaring the accused “to have waived their right to be heard in preliminary investigation”; finding a prima facie case against the accused; recommending that they be charged with and prosecuted for the crimes of murder, frustrated murder, and violation of R.A. No. 6539, as amended; and ordering that the records of the cases be forwarded to the Office of the Provincial Prosecutor for appropriate action.

After appropriate proceedings, the Office of the Provincial Prosecutor of Pangasinan filed with the Regional Trial Court (RTC) of Dagupan City three separate informations for murder, frustrated murder, and violation of the Anti-Carnapping Act of 1972, as amended, against the aforementioned persons. The informations were docketed as Criminal Cases Nos. 94-00617-D, 94-00619-D, and 94-00620-D, respectively. The first was later amended. The accusatory portions of the informations read as follows:

CRIMINAL CASE NO. 94-00617-D (as amended)

That on or about March 10, 1994 in the evening along the expressway at barangay Ventinilla, Municipality of Sta. Barbara, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the

above-named accused, armed with knives with intent to kill, treachery, evident premeditation and taking advantage of superior strength, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack and stab TEOFILO LANDINGIN inflicting upon him stab wounds which caused his instant death to the damage and prejudice of his heirs.

Contrary to Art. 248 of the Revised Penal Code as amended by Republic Act No. 7659.[5]

CRIMINAL CASE NO. 94-00619-D

That on or about March 10, 1994 in the evening along the expressway at barangay Ventinilla, Municipality of Sta. Barbara, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with knives and with intent to kill, treachery, evident premeditation, and taking advantage of superior strength, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously attack and stab VIRGILIO CATUGAS Y CASTAÑEDA inflicting upon him multiple stab wounds, the accused having then performed all the acts of execution which would have produced the crime of Murder as a consequence but which nevertheless, did not produce it by reason of causes independent of the will of the accused and that is due to the timely and able medical assistance rendered to said Virgilio Catugas y Castañeda which prevented his death to his damage and prejudice.

Contrary to Art. 248 in relation with Art. 6 of the Revised Penal Code.[6]

CRIMINAL CASE NO. 94-00620-D

That on or about March 10, 1994 in the evening along the expressway at barangay Ventinilla, Municipality of Sta. Barbara, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with knives by means of violence against person by stabbing to death TEOFILO LANDINGIN, owner-driver of a passenger jeep bearing Plate No. APP-432 with marking Lovely and thereafter with intent to gain, conspiring, confederating and mutually helping one another did then and there wilfully, unlawfully and feloniously take and drive away said passenger jeep bearing Plate No. APP-432 with marking Lovely owned and driven by Teofilo Landingin without the latter's consent, to the damage and prejudice of his heirs.

Contrary to Republic Act 6539 as amended.[7]

The first two were assigned to Branch 44 of the RTC of Dagupan City presided by Judge Crispin C. Laron (hereafter, LARON court) and thereafter consolidated and jointly tried. The third was assigned to Branch 43 of the said court presided by Judge Silverio Q. Castillo (hereafter, CASTILLO court).

At their arraignments, Mejia, Benito, Paraan, and Fabito entered a plea of innocence in each case.

ITHE CASES IN THE LARON COURT

In Criminal Case No. 94-00617-D (Murder) and Criminal Case No. 94-00619-D (Frustrated Murder) in the LARON court, the prosecution presented the following witnesses: Virgilio Catugas, policemen Domingillo Gulen and Bernardo Clemente, Dr. Cristito Garcia, Ma. Nora Landingin, and Dr. Roberto Valenzuela. Virgilio Catugas was recalled as rebuttal witness. In their defense, accused Mejia, Benito, Paraan, and Fabito took the witness stand. They also presented as additional witnesses Roberto Lambot, Shirley Lomboy, Conrado Benito, policeman Bernardo Clemente, and Felicidad Fabito in their evidence in chief and Julia Paraan as sur-rebuttal witness.

The evidence for the prosecution in these cases may be summarized as follows:

At around 7:00 p.m. of 10 March 1994, Virgilio Catugas was in front of the CS1 Supermarket in Dagupan City

waiting for a transportation to take him to his home at Talibaew, Calasiao, Pangasinan. Later, a passenger jeepney plying the Dagupan City - Calasiao route and driven by Teofilo Landingin arrived. He boarded it and occupied that portion of the passengers' seat behind the driver's seat. There were already some passengers inside the jeepney, but they disembarked before the jeepney reached the boundary of Dagupan City and Calasiao, leaving behind Landingin, Catugas, and two other passengers.[8]

When the jeepney reached the MacArthur Highway in San Miguel, Calasiao, nine persons flagged down the jeepney and boarded it. One of them, whom Catugas identified to be accused Edwin Benito, sat beside the driver; the rest took the passenger seats behind the driver's seat. Catugas fully recognized Benito because there was light at the ceiling of the jeepney and at the "signboard" portion of the jeepney and the latter sometimes turned his face toward the back where Catugas was seated. Catugas had further observed Benito's face, ears, and eyes.[9] He also recognized accused Mejia, Fabito, and Paraan.[10]

The nine passengers told Landingin that they were bound for Pangasinan Village Inn (PVI) in Bued, Calasiao. But when they reached PVI, one of them said that his companions did not know where they were going, and informed Landingin that he would take care of the fare upon reaching Nansangaan, Sta. Barbara, Pangasinan. Upon reaching Nansangaan, one of the nine passengers asked Landingin to drive a little farther. Later, Mejia asked Catugas whether he was Landingin's companion; Catugas answered in the affirmative. Mejia then announced: "[T]his is a hold-up"; while Benito said: "[N]obody will be able to be saved his life [sic]." Another companion of Mejia said: "Proceed." All of the nine drew their daggers and stabbed Landingin and Catugas.[11]

Landingin died on that same evening. Dr. Cristito Garcia, who conducted an autopsy on Landingin's cadaver, found three stab wounds - two of which were fatal. According to him, the cause of Landingin's death was cardiorespiratory arrest resulting from hypovolemic shock due to internal hemorrhage.[12] Nora Landingin, wife of Teofilo Landingin, spent P1,500 daily during the wake of her husband; P12,000 for his burial; and P16,000 for the tomb. Nora felt sad because of his death.[13]

On the other hand, Catugas, who was pushed out of the jeepney and landed on the road, was brought by some people to the Villaflor Memorial Hospital.[14] Dr. Roberto Valenzuela performed on Catugas exploratory laparotomy debridement and found three multi-lacerations in the right upper extremities and several others on the left upper extremities which could have been caused by bladed instruments.[15] Catugas survived and was confined for seven days. He spent more than P50,000 for his hospitalization and medical expenses. The hospital billed him in the amount of P44,667.25.[16]

In the same evening of 10 March 1994, while Policeman Domingullo Gulen of the Mabini Police Station, Mabini, Pangasinan, was approaching his residence at the poblacion in Sual, Pangasinan, on board a police patrol car, he saw six men walking in front of his house. When he stopped the car, the men ran away. He gave chase and caught two of them, namely, accused Mejia and Benito. Gulen thought that they belonged to an "akyat-bahay gang." When asked what they were doing, the two answered that they were not doing anything and that they were not robbers. They told Gulen that they were from Sta. Barbara. Benito even showed his driver's license and told Gulen that he did not commit any crime and that he was willing to go to the police station. Gulen then brought the two and turned them over to the police station in Sual, Pangasinan.[17]

Policeman Bernardo Clemente, who was the desk officer at 1:00 a.m. of 11 March 1994, entered in the police blotter this turn-over and talked to the two. In the course of their conversation, Benito reported that they rode on a jeepney, which was abandoned somewhere in Sual. Clemente decided to make a follow-up of this report. With Benito as their guide, Clemente and three other policemen were able to find the jeepney with the marking LOVELY in Sitio Nipa, Barangay Baguioen, Sual, Pangasinan. The jeepney had bloodstains on the front and back

seats. They brought it to the police station and had the matter recorded in the police blotter. Clemente then instructed the radio operator to call the police station of Sta. Barbara and inform it of the turn-over of Mejia and Benito. At 1:45 a.m. of 11 March 1994, the PNP elements of Sta. Barbara Police Station came and received the two, as well as the passenger jeepney.[18]

Also on 11 March 1994, at 12:00 noon, some concerned citizens of Sual apprehended Joseph Fabito in Sitio Looc, Poblacion Sual, as a murder suspect. He was turned over to the Sual Police Station. After having been informed of this arrest, the Sta. Barbara Police Station took him into its custody. These facts were entered in the Sual Police Station blotter.[19]

The accused admitted to having flagged down and boarded Landingin's jeepney that fateful evening of 10 March 1994, but denied having committed the crimes. They claimed that it was Romulo Calimquim and his companions who killed Landingin, stabbed Catugas, and drove away the jeepney. The following is a summary of their version of the events.

Edwin Benito, a resident of Ventinilla West, Sta. Barbara, Pangasinan, was the driver of the Elf truck of Lito Lomboy of Bued, Calasiao, Pangasinan, which was used in hauling sand and gravel. His co-accused Mejia, Paraan, and Fabito were his helpers.

At around 3:00 p.m. of 10 March 1994, after they completed delivering sand and gravel, the accused returned the truck and went to the house of Fabito's brother-in-law in San Miguel, Calasiao. After two hours of waiting in vain for the brother-in-law, Paraan suggested that they go to the house of his future brother-in-law in Bacayao Norte, Calasiao. After some snacks they proceeded to the town proper and strolled for a while. Then, Benito thought that it was time to go home to Sta. Barbara and suggested that they should. They proceeded to a waiting shed near the National High School to wait for a transportation for Sta. Barbara. At the waiting shed, they saw Romulo Calimquim with three other companions, who were also waiting for a transportation for Sta. Barbara. Calimquim then flagged down an approaching passenger jeepney. He and his companions boarded it. So did Benito and his companions. Calimquim sat beside the driver. The rest took the back seat.[20]

According to Paraan, it was Alex Mamaril, the man with a "huge body," who sat beside the driver.[21]

At the junction of the roads leading to the Municipal Hall of Sta. Barbara and that leading to the national highway, the man who sat beside the driver (Calimquim, according to Benito; Mamaril, according to Paraan) ordered the driver to proceed to the national highway; the driver did. But after reaching the highway, in Ventinilla, Sta. Barbara, the former ordered the latter to stop, announced that "this is a hold up," then stabbed the driver several times, pulled his body out of the jeepney, took over the wheel, and drove the jeepney.[22] In the meantime, at the back seat, one of the companions of Calimquim pointed a knife at Benito; while the others told Benito's companions to lie on their belly. It was when Catugas attempted to fight back that he was stabbed.[23] Catugas was then thrown out of the jeepney.[24]

Benito and his companions were prevented by the group of Calimquim from alighting from the jeepney. Upon reaching a mountain in Sual, Pangasinan,[25] the man on the wheel ordered Benito, Mejia, Paraan, and Fabito to alight from the jeepney. The group of Calimquim pointed knives[26] and a gun[27] at them. Then suddenly there was a light coming from below. They ran away from the group of Calimquim.[28]

Benito and Mejia were together.[29] Later, a policeman saw them. The two told the policeman that they are not "troublesome persons." The policeman brought them to the Police Station of Sual. There, Benito reported what had happened and accompanied the policemen to the place where the jeepney in question was located.[30] Afterwards, the two were detained at Sta. Barbara Police Station. While in detention, they were informed that

Calimquim was killed and his body was found in Alaminos.[31]

Paraan lost his way. He returned to Sta. Barbara only on 14 March 1994 and went to the house of Roland, his brother-in-law, in Bacayao Norte, to ask him to request a barangay councilman to accompany him to the police station. It was the barangay captain who accompanied him the following day to the police station. There, the police authorities told him that he was among the assailants of Landingin and that he was the one who stabbed Catugas in the night of 10 March 1994 and one of the suspects in the carnapping of the jeepney of Landingin.[32] Paraan was forthwith placed inside the jail.

Fabito stayed for awhile in the mountain. At 2:00 a.m. of 11 March 1994, he was by the seashore. He stayed there until 6:00 a.m. and inquired from someone the location of the police station. He went to that station which happened to be Sual Police Station. There, he narrated to the policemen what had happened. When a policeman asked him whether he was the killer, he answered in the negative. At around 1:00 p.m., he was brought to the Sta. Barbara Municipal Jail, where he was detained for three months. Then, he was committed to the Provincial Jail.[33]

Sometime after Catugas was discharged from the hospital and was already driving a tricycle, the parents of the accused met with him and informed him that the accused told them that they (the accused) did not commit any wrong. Catugas answered that he had suffered several wounds and spent much for his hospitalization and that since the accused were the ones apprehended, he would just tell a lie so he could recover the amounts he spent. Catugas then asked P20,000 from each of the accused, or a total of P80,000, and repeated this demand five to six times.[34]

The defense, through the testimony of Policemen Bernardo Clemente, also proved that Romulo Calimquim died due to a gunshot wound on 13 March 1994 in Barangay Paitan West, Sual, Pangasinan, as evidenced by Entry No. 4338 of Page 260 of the Police Blotter.[35]

On rebuttal, Catugas insisted that it was accused Edwin Benito who stabbed Landingin and that accused Mejia, Paraan, and Fabito were the ones who stabbed him. He further declared that it was the parents of the accused who offered to pay him, but he refused because such an offer could not “be accepted by [his] conscience.”[36]

The defense then presented Julia Paraan as surrebuttal witness. She denounced as untrue the testimony on rebuttal of Catugas that the parents of accused were the ones who offered to pay him money. Julia declared that they visited Catugas to ask him whether it was true that their children committed the crime. On their first visit, Catugas told them that he could not yet answer that question; but when they returned, Catugas told them that they had to pay the aggregate sum of P80,000, or P20,000 per family of the accused.[37]

The trial court gave full credit to the version of the prosecution and relied heavily on the identification of the accused by Catugas, the absence of ulterior motive on the part of the latter, and the offer of the parents of the accused to compromise the cases.

In its decision dated 17 November 1994,[38] the LARON court convicted accused Mejia, Benito, Paraan, and Fabito of the crime of murder and of frustrated murder, with treachery as the qualifying circumstance and nighttime and band as aggravating circumstances. Accordingly, it sentenced the first three accused to suffer the penalty of death for the crime of murder; and ten years and one day of prision mayor to seventeen years, four months, and one day of reclusion temporal for the crime of frustrated murder. It credited Paraan with the privileged mitigating circumstance of minority, he being only seventeen years old at the time of the commission of the crimes charged; and sentenced him to reclusion perpetua for murder, and six years of prision correccional to ten years and one day of prision mayor for frustrated murder. The Court also ordered the four accused to pay

the heirs of Teofilo Landingin the amounts of P50,000 as death indemnity; P16,000 for the cost of the tomb; and P12,000 for funeral expenses; and to pay Catugas the amount of P44,687.25 for hospital expenses, plus costs.

IITHE CASE IN THE CASTILLO COURT

In Criminal Case No. 94-00620-D (violation of the Anti-Carnapping Act) in the CASTILLO Court, the prosecution presented as its witnesses Virgilio Catugas and Nora Landingin. The former was recalled as rebuttal witness. The accused Mejia, Benito, Paraan, and Fabito took the witness stand and presented as additional witnesses Conrado Benito and Felicidad Fabito. Their testimonies were substantially the same as those they made in the murder and frustrated murder cases in the LARON court.

Prosecution witness Virgilio Catugas added that after Landingin was stabbed, he was thrown out of the jeepney to the shoulder of the road and that one of the culprits took the wheel of the jeepney, started off its engine, and drove off.[39] He further declared that while he was confined at the hospital, the policemen of Sta. Barbara investigated him, showed him pictures of the suspects, supplied the suspects' names,[40] and took his statement.[41] After he was discharged therefrom, he was able to talk with the father of accused Benito. He told the father of his hospitalization expenses and asked P80,000, as a settlement of the case, to be paid by the parents of the accused on an agreed date; but before that date came, he had already testified against the accused.[42]

Prosecution witness Nora Landingin, widow of Teofilo Landingin, further testified that her husband owned the passenger jeepney in question, as evidenced by Certificate of Registration No. 19253856,[43] and Official Receipt No. MVRR 91354948.[44] The jeepney was worth P140,000.[45]

The CASTILLO court gave full faith to the testimony of Virgilio Catugas. It debunked the version of the defense on account of the following "inculcating evidence," which, according to it, bolstered its finding that the accused were the authors of the crime charged:

1. Accused Gregorio Mejia, Edwin Benito, Joseph Fabito and Pedro Paraan speak of innocence and fear for their lives during the ruthless incident, unfortunately they never sustained any bodily injury on their bodies.

If the intention of Mok Calimquim and company is to hurt anybody, they could not have concentrated on the persons of Teofilo Landingin and Virgilio Catugas only but they should have also inflicted stabbing thrusts against their persons (accused).

2. They (accused) posited that for fear of their lives they did not do anything except to passively stay at the back seat of the jeepney motionless from the place of stabbing incident in Sta. Barbara, Pangasinan up to the mountains in Sual, Pangasinan.

Again, if one of the motives of Mok and company is to carnapp [sic] the passenger jeepney of Teofilo Landingin then the logical conclusion that can be had in the instant situation is for the group of Mok to liquidate the driver and all passengers for that matter, including the four (4) accused to eliminate the presence of eyewitnesses.

Unfortunately, the four (4) accused joined the group of Mok in going to Sual, Pangasinan without offering any slight resistance in the premises.

The natural conclusion that can be derived thereat is that, Mok and company belonged to the group of the four (4) accused who were responsible in perpetrating the offense charged.

3. Assuming en gratia argumenti that Mok and company are the real offenders, why is it that during the long span of travel from Sta. Barbara to Sual, they never made any attempt to jump off the passenger jeepney; neither did they show any positive signs to invite the attention of PNP members stationed along the long route starting in

Dagupan City, Binmaley, Lingayen, Bugallon, Labrador, Pangasinan.

4. Accused Gregorio Mejia and Edwin Benito steadfastly claim innocence of the crime charged. In fact, they averred that upon reaching Sual, Pangasinan, they reported to the responding peace officers what happened to them and that their reports was recorded in the Police Blotter of Sual Station.

The assertion of accused Benito and Mejia is tainted with absolute falsity and is debunked by the entry in the Police Blotter of Sual Police Station (Exh. G); the subject certification negates accused's statement of innocence. The subject entry which is contained in the Book of Events of Sual Police Station belies any complaint/report made by accused Edwin Benito/Gregorio Mejia that they were kidnapped or deprived of their liberty with the use of guns and bladed weapons. Upon the other hand, the Certification squarely bespeaks of the incarceration/detention of said accused (Mejia and Benito) at Sual Police Station for they were suspected of having carnapped the passenger jeepney involved in the above case.

5. With respect to accused Joseph Fabito and Pedro Paraan, they likewise vehemently denied the accusation lodged against them. Unfortunately, their conclusion of innocence crumbled when they joined the group from the crime scene starting in Sta. Barbara, Pangasinan up to their destination in Sual, Pangasinan. In fact when they reached Sual, Pangasinan they scampered and run away to different directions to avoid apprehension.

Instead of proceeding to the Sual Police Station or making any report to the nearest authority i.e. Barangay Captain of the place they decided to escape which they did with impunity. The records in the Police Blotter of Sual is negatived (sic) of any entry about the whereabouts of accused Paraan and Fabito.[46]

The court then convicted accused Gregorio Mejia, Edwin Benito, Pedro Paraan, and Joseph Fabito guilty of the violation of the Anti-Carnapping Act of 1972, as amended. It sentenced the first three accused to death; and Paraan, to reclusion perpetua on account of the privileged mitigating circumstance of minority. It also ordered them to pay the costs.

III THE APPEALS AND ASSIGNMENT OF ERRORS

Although review in cases where the death penalty is imposed by the trial court is automatic pursuant to Section 22 of R.A. No. 7659,[47] the convicted accused filed with this Court their notices of appeal from the decision of the LARON court and of the CASTILLO court on 18 November 1994 and 22 February 1995, respectively.

Criminal Cases Nos. 94-00617-D and 94-00619-D were docketed in this Court as G.R. Nos. 118940-41, and Criminal Case No. 94-00620-D was docketed as G.R. No. 119407.

On 2 February 1996, after they filed separate Appellants' Briefs in G.R. Nos. 118940-41 and in G.R. No. 119407, the appellants filed a motion for the consolidation of these cases, which we granted on 27 February 1996.

In their Appellants' Brief in G.R. Nos. 118940-41, the appellants impute upon the trial court the following errors: (a) in giving full faith and credence to the unsubstantiated testimony of prosecution witness Virgilio Catugas relative to the incident in question; (b) in holding them as the persons who stabbed the jeepney driver and Virgilio Catugas in the evening of 10 March 1994 despite the fact that clear and convincing evidence were proffered to point at the real culprits, Romulo Calimquim and his companions; (c) in rendering a verdict of conviction notwithstanding the failure of the prosecution to prove their guilt beyond reasonable doubt; and (d) in convicting them of the crimes charged instead of the crimes homicide and frustrated homicide -- on the assumption that they are guilty.

Being interrelated, the appellants discussed jointly these assigned errors. They submit that:

(1) The uncorroborated testimony of Catugas on the identification of the appellants leaves much to be desired. He should not be believed, for he could not even remember who among the appellants were wearing short pants, hat, and shoes at that time. If policeman Gulen could not even identify in court appellant Mejia whom he apprehended in the evening of 10 March 1994 and brought to the Sual Police Station, it was with more reason that Catugas could not have identified the assailants since it was nighttime. The possibility that Catugas got confused, if not mentally and physically drained, as a result of the shocking incident is not far-fetched. There is then a very strong and compelling reason to believe that Catugas mistook the appellants as the real hold-uppers.

(2) Catugas told Conrado Benito and Felicidad Fabito that their children did not commit any wrong, but Catugas “vacillated and testified falsely against accused-appellants when they were not able to produce the amount of P20,000.00 each as earlier demanded from them.” Catugas’ denial of their testimony is self-serving and cannot overcome the positive testimony of Conrado and Felicidad.

(3) The actuations of appellants specifically that of Edwin Benito augurs well with their claim of innocence,” when they were apprehended. Benito readily showed his driver’s license, answered questions propounded by policeman Clemente, and without hesitation he helped or guided the policemen in locating the jeepney at the place where it was abandoned. He did not try to hide or conceal anything when he was confronted about the incident. Moreover, when Benito and Mejia were picked up by a policeman on that fateful night, they were not “tainted with blood.”

(4) On the assumption that they are guilty they could only be liable for homicide and frustrated homicide, since treachery was not established.

In their Appellants’ Brief in G.R. No. 119407, they make the following assignment of errors: (a) the facts charged in the information do not constitute violation of the crime of Anti-Carnapping Act of 1972, as amended; (b) The court a quo erred in convicting them of the crime charged on the basis of surmises and conjecture; and (c) the court a quo erred in convicting them by relying fully on the evidence of the prosecution and completely disregarding the evidence of the defense.

As to the first, the appellants argue that intent to gain, which is an essential ingredient of the crime of carnapping, was not proved. They claim that from the evidence adduced “it is very clear that the incident was only a hold-up and that the jeepney was taken to Sual as escape vehicle.”

In support of the second and third assigned errors, which they discussed jointly, the appellants submit that:

(1) The trial court’s conclusion on their culpability was based on mere surmises and conjectures and contradicted by the evidence on the record. The fact that the group of Calimquim did not hurt any of the four appellants and that the latter offered no resistance does not prove appellants’ membership in Calimquim’s group. That they did not even jump off the passenger jeepney or show positive signs to invite the attention of the PNP stationed along the route from Dagupan City to Sual, it was because of fear since Calimquim’s group pointed knives at each of them and ordered them to lie down in stooping position. The absence of conspiracy was shown by the fact that in Sual, after they were released as hostages, they ran in separate directions and did not join the group of Calimquim.

(2) The entry in the Sual Police Station police blotter that Benito and Mejia were suspected of having carnapped the passenger jeepney does not bind them, for it was made by a police officer and was contrary to what they had reported.

(3) There is no basis for the conclusion that Paraan and Fabito had escaped.

(4) The trial court should not have relied on the testimony of Catugas whose identification of the appellants was

based only on the pictures and on the information of the policemen. It was impossible for Catugas to narrate in detail the participation of each accused, considering that the light in the jeepney was dim and his principal attention was concentrated on defending himself.

(5) Appellants' reporting of the incident disproved their membership in the group of Calimquim. If they were members, their natural course would have been to hide from the authorities. Their voluntary submission to the police immediately after the incident should have been given credence as part of the *res gestae*.

In the Consolidated Appellee's Brief, the Office of the Solicitor General (OSG) urges us to affirm in toto the challenged decisions for failure of the appellants to show that the trial court committed error in finding the prosecution evidence clear, sufficient, and convincing to convict. Catugas, who made an eyewitness account, had the opportunity to observe the appellants during the commission of the crime and had no ill-motive to implicate the appellants falsely. As to the charge that he perjured because the appellants were not able to produce the amount of P80,000 which he allegedly demanded from them, the same should not be believed. The truth is, it was the parents of the appellants who approached Catugas and offered him P80,000 in order that he would not testify against the appellants. Catugas did not accept the offer, as it was against his principles to tell a lie.

The OSG also maintains that treachery was duly proved and, hence, the trial court was correct in convicting the appellants of murder for the death of Teofilo Landingin and frustrated murder for stabbing Virgilio Catugas. Their conviction for violation of the Anti-Carnapping Act is also proper, since their main purpose was to get the jeepney and they killed Landingin in order that they could get it. They presented no evidence to prove that they ran away with the jeepney for any lawful purpose.

In their Consolidated Reply Brief, the appellants try to show that the identification made by the prosecution witness Catugas cannot be denominated as clear, positive, and convincing; for, while it may be true that he "could have taken glimpse or glance at the faces of all the accused-appellants, this fact alone is not adequate and fell short of the required test of 'positive identification'." They strongly suggest that Catugas had ill-motive to testify falsely against them in that he was not paid the P80,000 he demanded.

IV THE CRIMES COMMITTED AND THE ISSUE OF CULPABILITY OF APPELLANTS

Before we go any further, remarks on some procedural matters are in order. The crimes charged in the informations filed before the LARON court and CASTILLO court are irretrievably linked with or related to one another. They arose out of the same incident, are founded on the same factual milieu, and would be proved by testimonies of the same witnesses. The three cases then should have been consolidated and jointly tried in one branch of the RTC of Dagupan City. What were jointly tried were only the cases for murder and frustrated murder. Section 14 of Rule 119 of the Rules of Court provides:

SEC. 14. Consolidation of trials of related offenses. Charges for offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the court's discretion.

The purpose or object of consolidation is to avoid multiplicity of suits, guard against oppression or abuse, prevent delay, clear congested dockets, simplify the work of the trial court, and save unnecessary cost or expense; in short, the attainment of justice with the least expense and vexation to the parties litigants.[48] In *Raymundo v. Elipse*,[49] we held that although consolidation of several cases involving the same parties and the same subject matter is one addressed to the sound discretion of the trial court, joint hearing becomes a matter of duty if two or more cases are tried before the same judge, or even filed with the different branches of the same court, provided one of such cases has not been partially tried.

We are unable to understand why neither the LARON court or the CASTILLO court nor any of the parties caused,

or moved for, a consolidation of the case for violation of the Anti-Carnapping Act (which has the higher docket number) with the cases for murder and frustrated murder in the LARON court (which have lower docket numbers). It was only after the filing of their separate Appellants' Brief in G.R. Nos. 118940-41 and in G.R. No. 119407 that the appellants moved to consolidate the latter with the former.

This failure to consolidate the three cases at the trial court level could contribute some difficulty in the appreciation of the evidence. The principal witnesses of the parties testified in all the three cases. Yet, the assessment of their testimony and credibility in the LARON court must not be influenced by their testimonies in the case before the CASTILLO court, and vice versa. In the LARON court, prosecution witness Catugas was unclear in some details of the incident, but clear in the CASTILLO court. Upon the other hand, there were details he disclosed in one of the courts which were not given in the other court. The same observation may be had on the testimonies of the appellants before both courts. As one reads the transcripts of the testimonies of these witnesses in both cases, it would be quite difficult to avoid forming impressions in light of the totality of their testimonies in both courts. Our minds and mental processes must be kept away from the pitfalls of such impressions, for the rules on evidence and the constitutional presumption of innocence in favor of the appellants dictate that we resolve the appeals in the cases before the LARON court and the case before the CASTILLO court solely on the basis of the evidence presented before such courts, respectively.

The next preliminary matter to be resolved is whether the crimes of murder in Criminal Case No. 94-00617-D and frustrated murder in Criminal Case No. 94-00619-D are absorbed in the violation of the Anti-Carnapping Act in Criminal Case No. 94-00620-D.

R.A. No. 7659 which took effect on 31 December 1993[50] is applicable to these cases because the crimes were committed on 10 March 1994. Section 14 of the Anti-Carnapping Act was amended by Section 20 of R.A. No. 7659 and now imposes the penalty of reclusion perpetua to death when the owner, driver, or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. This Section, as amended, reads in full as follows:

SEC. 14. Penalty for Carnapping. -- Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. (Underscoring supplied for emphasis).

In the original Section 14 of R.A. No. 6539, the last clause read as follows:

and the penalty of life imprisonment to death shall be imposed when the owner, driver or occupant of the carnapped vehicle is killed in the commission of the carnapping. (stress supplied).

Three amendments have thus been made, viz: (1) the change of the penalty of life imprisonment to reclusion perpetua, (2) the inclusion of rape, and (3) the change of the phrase "in the commission of the carnapping" to "in the course of the commission of the carnapping or on the occasion thereof." The latter makes clear the intention of the law to make the offense a special complex crime, by way of analogy vis-a-vis paragraphs 1 to 4 of Article 294 of the Revised Penal Code on robbery with violence against or intimidation of persons. As such, the killing (or the rape) merely qualifies the crime of carnapping which for lack of specific nomenclature may be known as qualified

carnapping or carnapping in an aggravated form. In short, considering the phraseology of the amended Section 14,[51] the carnapping and the killing (or the rape) may be considered as a single or indivisible crime or a special complex crime which, however, is not covered by Article 48 of the Revised Penal Code.

Since Section 14 of R.A. No. 6539 uses the words "IS KILLED," no distinction must be made between homicide and murder. Whether it is one or the other which is committed "in the course of carnapping or on the occasion thereof" makes no difference insofar as the penalty is concerned.

It follows then that the killing of the driver, Teofilo Landingin -- whether it be homicide or murder -- cannot be treated as a separate offense, but should only be considered to qualify the crime of carnapping.

Nonetheless, although there could only be one single offense of qualified carnapping or carnapping in an aggravated form, the prosecution had still to prove the essential requisites of the homicide or murder of Landingin and that of carnapping. This should have been another reason for the consolidation of the carnapping case in the CASTILLO court with the cases before the LARON court.

But do the words "IS KILLED" in the last clause of Section 14 of R.A. No. 6539, as amended, include the crime of frustrated murder or homicide? Put a little differently, does murder or homicide in its frustrated stage also qualify carnapping if it is committed "in the course of the commission of the carnapping or on the occasion thereof"? The answer must be in the negative in light of the use in said Section 14 of the words "IS KILLED." The unmistakable import thereof is that it refers only to the consummated felony of either murder or homicide.

If attempted or frustrated murder or homicide is committed "in the course of the commission of the carnapping or on the occasion thereof," then it must be deemed to fall under the clause (of Section 14) "when the carnapping is committed by means of violence against or intimidation of any person."

We shall now take up the issue of the culpability of the appellants.

The evidence adduced by the prosecution has established beyond reasonable doubt the carnapping of Teofilo Landingin's passenger jeepney, which is a motor vehicle under the definition in Section 2 of R.A. No. 6539.[52] The passenger jeepney was taken, with intent of gain, from Landingin by means of violence against him which caused his death and against a passenger, Virgilio Catugas, who suffered physical injuries.

But, has the prosecution established with moral certainty the guilt of the appellants? The LARON and the CASTILLO courts held that it did.

Enshrined in the Bill of Rights is the right of the accused to be presumed innocent until the contrary is proved.[53] To overcome the presumption, nothing but proof beyond reasonable doubt must be established by the prosecution.[54] Save in certain circumstances as where, for instance, the accused admits the commission of the acts alleged to constitute a crime but interposes justifying circumstances, the burden is never shifted to the accused or diminished by the weakness of his defense. Indeed, unless the prosecution successfully discharges that burden, the accused need not even offer evidence in his behalf.[55]

In our jurisdiction accusation is not synonymous with guilt. The freedom of the accused is forfeit only if the requisite quantum of proof necessary for conviction be in existence. This, of course, requires the most careful scrutiny of the evidence for the State, both oral and documentary, independent of whatever defense is offered by the accused. Every circumstance favoring the accused's innocence must be duly taken into account. The proof against the accused must survive the test of reason. Strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the accused could be laid the responsibility for the offense charged.[56] If the prosecution fails to discharge the burden, then it is not only the accused's right to be freed; it is, even more,

the court's constitutional duty to acquit him.[57]

After a painstaking review of the records and the transcripts of the stenographic notes of the testimonies of the witnesses in the cases before the LARON court and the CASTILLO court, we are not convinced with moral certainty that the appellants committed the crimes charged. Reasonable doubt burdens our conscience; our minds cannot rest easy on a verdict of conviction.

The prosecution had nine suspects in these cases: the four appellants and the five others, namely, Romulo Calimquim, Alex Mamaril, a certain Dennis, a certain Mondragon, and another described as John Doe. All nine were forthwith charged with the crimes of murder, frustrated murder, and carnapping in Criminal Cases Nos. 3310,[58] 3313,[59] 3311,[60] respectively, of the Municipal Trial Court of Sta. Barbara, Pangasinan, and then in the informations in Criminal Cases Nos. 94-00617-D,[61] and 94-00619-D[62] of the LARON court and Criminal Case No. 94-00620-D[63] of the CASTILLO court, respectively.

The theory of the appellants is that they were not members of the group of Romulo Calimquim. The prosecution has no proof to prove otherwise; but the LARON and the CASTILLO courts, through inferences from certain facts, concluded that the appellants were. The conclusion is rather tenuous. While the rigorous cross-examination of the appellants in all these cases has established close relationship among the appellants by reason of their residence and work, (Benito, as sand-and-gravel truck driver and Mejia, Fabito, and Paraan as his keepers), it miserably failed to establish any relationship between them and the five others headed by Calimquim. What then looms large in our minds is that the appellants and the five others happened to be passengers of Landingin's jeepney by accident, not by design. If the appellants were with the five others until Sual, Pangasinan, it was because they were intimidated and made to lie down on their bellies inside the jeepney.

Another circumstance further proves that the appellants did not belong to the group of Calimquim. Upon arrival in the mountains of Sual, they fled from the Calimquim group when the first opportunity to do so came. We find to be absolutely without basis the statement of the CASTILLO court that the appellants abandoned Landingin's jeepney in Sitio Nipa, Baquioen, Sual, Pangasinan, "upon seeing the arrival of concerned citizens and members of the Sual Police Station; the responding peace officers effected the recovery of the subject jeepney sans the accused/culprits." No prosecution witness so testified. In the CASTILLO court, no policeman was presented as witness for the prosecution. The evidence presented by both the prosecution and the defense reveal that after appellants Benito and Mejia were picked up by Policeman Gulen on the latter's suspicion that they were members of an akyat-bahay gang, they voluntarily informed the police authorities of the Sual Police Station of what had happened. It was this information that brought the policemen to where the subject jeepney was located. Benito even accompanied the policemen. This resulted in the recovery of the jeepney by the policemen. Appellant Paraan also presented himself later to the Police Station of Sta. Barbara. Appellant Fabito, although apprehended by concerned citizens of the place to where he had fled, voluntarily reported what he knew to the police authorities of Sual and Sta. Barbara.

Unfortunately, the CASTILLO court relied heavily on the entries in the police blotters of the police stations of Sual and Sta. Barbara. The silence of the entries on what the appellants had declared in court is not conclusive evidence that they did not report the incident to the police authorities. They had no participation in the preparation of the entries. Entries in the police blotters should not be given undue significance or probative value, for they are normally incomplete and inaccurate sometimes from either partial suggestion or for want of suggestion or inquiries.[64] The entries in question are sadly wanting in material particulars. At the very most, they only recorded the impression that the appellants were "suspects."

As to the alleged participation of the appellants in the commission of the crimes, the prosecution had to rely solely

on the testimony of Virgilio Catugas. The totality of his testimony in the cases before the LARON court leaves much to be desired. The prosecutor who conducted the direct examination was unable to propound sensible questions to elicit clear answers bound to reconstruct faithfully the events surrounding the commission of the alleged crimes. This deficiency thus tempted the trial judge to ask more questions. Despite the latter's participation, the testimony of Catugas fails to convince us that the appellants indeed participated in the commission of the crimes. On cross-examination in the LARON court, Catugas categorically admitted that he did not know the names of the appellants and that he could recognize only three of the nine accused. Thus:

ATTY. TAMINAYA:

Q Now, in paragraph 8 of your statement, you said and you mentioned the names of the person and I will now read:

“Q How about the true names of the suspect, do you know them?

A In fact I do not know, however, based on the police investigation of Sta. Barbara PNP, they were, Gregorio Mejia, Edwin Benito, Joseph Fabito, Pedro Paraan, Mok Calimquim, alyas Dennis, Alex Mamaril, Dennis Abrigo alyas Mondragon and one unidentified person.”

can you tell this Court why these persons were written in your statement?

A Because of the police investigation.

Q So, were it not of the police and the pictures, you were not able to identify the accused, is that correct?

A I can recognize the others, sir.

Q How many of the nine (9) can you recognize?

A Three (3) of them, sir.

COURT:

Q What you do mean when you said that that you can recognize three (3) of them?

A I can remember those persons who sat near me.

Q Who of the four (4) accused who sitted [sic] near you?

A The one wearing red T-shirt, the second to the last of the four accused.

Q So, how were you able to identify these [sic] person who is [sic] wearing in [sic] red T-shirt?

A I saw his face, sir.

Q How were you able to recognize the last person (referring to Edwin Benito)?

A He was besides [sic] the driver, Sir.[65]

Further indicating the uncertainty of his identification, he made the following admissions on cross-examination:

Q Now, you said you recognized the persons who sat besides [sic] the driver, is it not?

A Yes, sir.

Q Please point to him?

A He was wearing a dark color.

Q Was it a T-shirt or a polo shirt?

A I cannot tell, sir.

Q How about the person sitting in front of you whom you pointed to this person wearing in red T-shirt?

A I can no longer remember, sir.

Q How about the person next to the one with red t-shirt, do you remember his shirt?

A I don't know, sir.

Q How about Gregorio Mejia, do you remember his clothes?

A I cannot remember, sir.

Q You can't remember also whether one of these accused was wearing a hat at that time?

A I cannot remember, sir.

In the case before the CASTILLO court, he declared that he was stabbed by the nine persons. Thus:

COURT:

Q Who were involved in stabbing?

A All of them, sir.

Q Who was the assailant and who was stabbed?

A The 9 persons, sir.

Q When you said 9 persons, they were the 9 persons who participated in the stabbing incident and who were the victims?

A Me and the driver, sir.

PROS. MARATA:

Q How many times were you stabbed by the nine persons, four of whom were inside the courtroom?

A From the scar left of my body, there are 22 stabbed wounds, sir.[66]

Yet, no further questions were asked for him to convincingly show that the appellants inflicted any of the stab wounds on his body. Further compounding the uncertainty and unreliability of Catugas' testimony, he candidly admitted on cross-examination that only one person stabbed him. Thus:

ATTY. TAMINAYA:

Q How many times were you stabbed by them?

A Twice, sir.

Q And you cannot recognize the person who stabbed your?

A I can identify him, sir.

Q How many persons stabbed you then?

A Only one (1) person, sir.[67]

Upon further questioning by the court, Catugas declared that six of the nine stabbed him:

COURT:

Q How many stab wounds did you sustain?

A More than twenty (20) stab wounds, sir.

Q A while ago you mentioned there were two (2) initial stab blows with respect to the other stab blow who delivered this stab blow?

A His companions and also Gregorio Mejia, sir.

COURT:

Proceed.

ATTY. TAMINAYA:

Q When you said his companions and Gregorio Mejia are you referring to the five (5) other persons as the companions of Gregorio Mejia who participated in stabbing you?

A I think it is about six (6) of them who stabbed me, sir.[68]

He could not remember anymore the person who inflicted the last stab wound, and then declined to point to anyone of the herein four appellants as the person who did it. Thus:

COURT:

Q When they stopped stabbing you they did not stab you anymore?

A They still stabbed me on my right upper arm, sir. (Witness showing his scar near the shoulder.)

Q You said you were stabbed on your right shoulder, who stabbed you among these nine (9) persons?

A I could not remember anymore, sir.

Q When you said you cannot remember, you cannot tell this Court whether it was one among the four (4) accused in this case who stabbed you on your right upper arm?

A I could not point the person responsible in stabbing my shoulder because that is the last stab wound, sir.[69]

It would thus be sheer speculation and conjecture to conclude from Catugas' testimony in the CASTILLO court that the appellants had inflicted any of the stab wounds on Catugas.

Moreover, on question by the trial judge in the CASTILLO court, Catugas categorically admitted that none of the appellants participated in the stabbing of Landingin. Thus:

COURT:

Q These two persons who participated in stabbing Teofilo Landingin, can you inform the Court if the four (4) accused now or these two persons are among the four (4) accused now?

A They are not here, sir.[70]

Finally, Catugas was not entirely free from any ulterior motive in implicating the appellants. He admitted that he demanded P80,000 from the parents of the appellants, but before they could give the money on the agreed date, he testified against the appellants in the LARON court. The following exchanges between him and counsel for the defense before the CASTILLO court are revealing:

ATTY. TAMINAYA:

Q After you were released from the hospital, were you able to talk with the father of Edwin Benito?

A Yes, sir.

Q And you told them about your expenses in the hospital, is that correct?

A Yes, sir.

Q And you demanded from them to pay P40,000.00 is that correct?

A I was asking P80,000.00, sir.

COURT:

Q Why were you asking the amount of P80,000.00 then?

A Because he pleaded to me, sir.

Q What you are trying to convey to the Court is that you are settling the case with Edwin Benito the amount of P80,000.00?

A Yes, sir.

COURT:

Proceed.

ATTY. TAMINAYA:

Q And the parents of Edwin Benito cannot pay that P80,000.00 because they are poor?

A They will not pay that amount on that date, we have agreed of another date for them to pay, sir.

COURT:

Q Did the parents of Edwin Benito made a counter offer?

A That is already their counter proposal, sir.

Q What you want to tell the Honorable Court is that you agreed to pay you P80,000.00 but he cannot pay you at that very moment?

A Yes, sir.

COURT:

Proceed.

ATTY. TAMINAYA:

Q Did you agree for the amount of P80,000.00?

COURT:

That is the settlement money.

ATTY. TAMINAYA:

Q So, it is clear that if only they have given P80,000.00, you should not have testified in this case?

A PROSECUTOR MARATA:

Improper, your honor.

ATTY. TAMINAYA:

As follow-up question, your Honor.

COURT:

Sustained. Hypothetical.

ATTY. TAMINAYA:

Q You said that there was the agreed date, what happened on the agreed date?

A The date has not yet arrived but I have already testified, sir.

COURT:

Q When you said you have already testified, you are referring to your testimony in RTC Branch 44?

A Yes, sir.[71]

In the LARON court, efforts were made by the prosecution to cushion the impact of Catugas' demand for payment of P80,000 in consideration of his exculpatory testimony. It wanted to prove that the parents of the appellants were in fact the ones who proposed. But the testimony of Conrado Benito, which the prosecution failed to satisfactorily rebut, is that the parents went to see him to verify whether their children had indeed

committed the crimes; but Catugas replied that since the appellants were the ones apprehended, he would just pinpoint them so that he could recover what he had spent. He then demanded P80,000, which he equally apportioned among the parents of the four appellants. Conrado Benito testified as follows:

Q What did you tell him?

A I told him that our children telling us that they did not commit any wrong and I told them to tell the truth and we are not consenting them to whatever they have done if they have done something wrong.

Q What was the answer of Virgilio Catugas?

A He said, he suffered several wounds and that he spent so much for his hospitalization, and he said also that they were the persons who were apprehended and so, I will just tell a lie for the same because how could I collect for the amount I spent if I will not tell a lie?

COURT:

Q You consider Virgilio Catugas as a liar and you are not a liar?

A Yes, sir.

ATTY. TAMINAYA:

Q Can you tell this Court what did you tell him about that expenses?

A I said, "then we can at least help you", because he is saying that he suffered several wounds.

Q How much did Virgilio Catugas tell you?

A The last time that we talked, he ask[ed] us to give P20,000.00 each.

COURT:

Q How many times did he tell you?

A For 5 to 6 times because he told us to return to him.[72]

But the parents could not deliver the P20,000 each was to pay, for they could not afford it. Conrado so declared, thus:

ATTY. TAMINAYA:

Q When Virgilio Catugas told you to give P20,000.00, can you tell this court if he made mention to the wife of Teofilo Landingin?

A Because he is collecting from us P20,000.00, he told us that we would not tell the same to Mrs. Landingin.

Q Were you able to give that P20,000.00?

A No sir, not even a single centavo.

Q Why?

A We cannot pay because even payment for attorney's fees, we cannot afford.[73]

The LARON court gave credence to the version of the prosecution and even took the incident as offer of compromise, which may be considered an implied admission of guilt. Said court misapplied Section 27 of Rule 130 of the Rules of Court.[74] There is no evidence whatsoever that any of the appellants authorized his parents to approach Catugas or knew the matter of payment of P80,000. Moreover, if one were to believe the explanation of Catugas that the amount of P80,000 represented the expenses he incurred for his hospitalization and medical bills, then the offer to reimburse it is not admissible in evidence as proof of criminal liability pursuant to the last paragraph of Section 27 of Rule 130.

On the whole then we entertain, unavoidably, serious doubt on the participation of the appellants in the

commission of the crimes charged.

WHEREFORE, the challenged decisions in Criminal Case No. 94-00617-D (for Murder) and Criminal Case No. 94-00619-D (for Frustrated Murder) of Branch 44 and in Criminal Case No. 94-00620-D (violation of Anti-Carnapping Act of 1972) of Branch 43 of the Regional Trial Court of Dagupan City are REVERSED. Accused-appellants Gregorio Mejia, Edwin Benito, Pedro Paraan, and Joseph Fabito are ACQUITTED on the ground that their guilt therefor has not been proved beyond reasonable doubt or with moral certainty. Their immediate release from detention is hereby ordered, unless other lawful and valid grounds for their further detention exist.

No costs.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Romero, Bellosillo, Melo, Vitug, Kapunan, Mendoza, Francisco, and Panganiban, JJ., concur.

Puno, Hermosissima, Jr., and Torres, Jr., JJ., on leave.

[1] Original Record (OR), Criminal Case No. 94-0617-D, 7.

[2] OR, Criminal Case No. 94-00619-D, 10.

[3] OR, Criminal Case No. 94-00620-D, 10.

[4] OR, Criminal Case No. 94-00617-D, 19; OR Criminal Case No. 94-00619-D, 17; and OR, Criminal Case No. 94-00620-D, 26.

[5] OR, Criminal Case No. 94-00617-D, 1.

[6] OR, Criminal Case No. 94-00619-D, 1.

[7] OR, Criminal Case No. 94-00620-D, 1.

[8] TSN, 20 July 1994, 4; TSN, 22 July 1994, 4-6.

[9] Id., 9-13.

[10] Id., 16-18.

[11] TSN, 20 July 1994, 5-7.

[12] Exhibit "F"; OR, Criminal Case No. 94-00617-D, 9; TSN, 9 August 1994, 5-7.

[13] TSN, 25 July 1994, 2-3.

[14] TSN, 20 July 1994, 9.

[15] TSN, 25 July 1994, 7-8.

[16] TSN, 20 July 1994, 9.

[17] TSN, 27 July 1994, 3-9.

[18] TSN, 27 July 1994, 12-18.

[19] Id., 19-22. Exhibits "E" to "E-2" inclusive.

- [20] TSN, 10 August 1994, 3-10; TSN, 11 August 1994, 4-6.
- [21] TSN, 17 August 1994, 9-10.
- [22] TSN, 11 August 1994, 9-15.
- [23] Id., 11-13; TSN, 10 August 1994, 15- 16, 29, 32.
- [24] TSN, 17 August 1994, 13.
- [25] TSN, 11 August 1994, 19.
- [26] TSN, 24 August 1994, 18.
- [27] TSN, 26 August 1994, 9.
- [28] Id., 21-22; TSN, 24 August 1994, 18.
- [29] Id., 19.
- [30] TSN, 10 August 1994, 23-24.
- [31] Id., 26.
- [32] TSN, 11 August 1994, 20-21, 25-26; TSN, 17 August 1994, 4-5.
- [33] TSN, 26 August 1994, 11-13.
- [34] TSN, 2 September 1994, 13-14; TSN, 14 September 1994, 3-5.
- [35] TSN, 7 September 1994, 4.
- [36] TSN, 16 September 1994, 5-7.
- [37] TSN, 19 September 1994, 3-5.
- [38] OR, Criminal Case No. 94-00617-D, 99-111; Rollo, G.R. Nos. 118940-41, 35-47.
- [39] TSN, 10 August 1994, 13-15.
- [40] TSN, 17 August 1994, 9-10; TSN, 24 August 1994, 21.
- [41] Exhibit "A," OR, Crim. Case No. 94-00620-D, 12-13.
- [42] TSN, 17 August 1994, 15-17.
- [43] Exhibit "B," OR, Crim. Case No. 94-00620-D, 100.
- [44] Exhibit "C," Id., 99.
- [45] TSN, 31 August 1994, 4-5,8.
- [46] OR, Criminal Case No. 94-00620-D, 162-164; Rollo, G.R. No. 119407, 30-32.
- [47] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes, which took effect on 31 December 1993 (People v. Simon, G.R. No. 93028, 234 SCRA 555 [1994]).
- [48] 1 C.J.S. Actions §108, 1343; Cojuangco v. Court of Appeals, 203 SCRA 619, 632 [1991].

[49] 42 SCRA 615, 629 [1971].

[50] Supra, note 47.

[51] As distinguished, for instance, from the phraseology of Section 1 of P.D. No. 1866 on qualified illegal possession of firearm, where murder or homicide is committed with the use of an unlicensed firearm -- the assailant is also liable for murder or homicide in view of the clear intent of the law to respect and preserve the latter as a distinct offense under the Revised Penal Code and to increase the penalty for illegal possession of firearm where such firearm is used in killing a person. (People v. Quijada, 259 SCRA 191 [1996]).

[52] The term "Motor Vehicle" is defined therein as any vehicle propelled by any power other than muscular power using the public highways, but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles which run only on rails or tracks and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes.

[53] Sec. 14(2), Article III of the Constitution.

[54] Sec. 2, Rule 133, Rules of Court.

[55] People v. Garcia, 215 SCRA 349, 358-359 [1992].

[56] People v. Dramayo, 42 SCRA 59, 64 [1971]; People v. Aguilar, 222 SCRA 394, 407-408 [1993].

[57] People v. Pido, 200 SCRA 45 [1991]; People v. Cordova, 224 SCRA 319, 348 [1993].

[58] OR, Criminal Case No. 94-00617-D, 7.

[59] Id., Criminal Case No. 94-00619-D, 10.

[60] Id., Criminal Case No. 94-00620-D, 10.

[61] Id., Criminal Case No. 94-00167-D, 1.

[62] Id., Criminal Case No. 94-00169-D, 1.

[63] Id., Criminal Case No. 94-00620-D, 1.

[64] People v. Casinillo, 213 SCRA 777, 790 [1992].

[65] TSN, 22 July 1994, 15-17.

[66] TSN, 10 August 1994, 11.

[67] TSN, 24, August 1994, 14.

[68] Id., 15.

[69] Id., 9.

[70] Id., 13.

[71] TSN, 17 August 1994, 15-17.

[72] TSN, 2 September 1994, 13-14.

[73] TSN, 2 September 1994, 16-17.

[74] The Section reads as follows:

SEC. 27. Offer of compromise not admissible. -- In civil cases, an offer of compromise is not an admission of any liability, and is not admissible in evidence against the offeror.

In criminal cases, except those involving quasi-offenses (criminal negligence) or those allowed by law to be compromised, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.

A plea of guilty later withdrawn, or an unaccepted offer of a plea of guilty to a lesser offense, is not admissible in evidence against the accused who made the plea or offer.

An offer to pay or the payment of medical, hospital or other expenses occasioned by an injury is not admissible in evidence as proof of civil or criminal liability for the injury.

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