

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
PABLEO CABELTES Y ABANG, DEFENDANT-APPELLANT.***G.R. Nos. 38145-48. June 29, 1979*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-38145-48/>**PER CURIAM:**

Pableo Cabeltes y Abang was convicted in the Criminal Circuit Court of Misamis Oriental under four separate informations for parricide, murder and two frustrated murders, all committed on the same occasion, and thereupon, imposed the extreme penalty of death, each for the crime of parricide and murder, and 10 years of prision mayor to 17 years and 4 months of reclusion temporal, each for the two frustrated murders. The aggravating circumstances of (1) the crime having been committed by means of fire, (2) recidivism, (3) dwelling, (4) nighttime, (5) evident premeditation, and (6) treachery were found by the trial court to have concurred in the commission of parricide, as well as in that of murder, except that in the latter crime, that of evident premeditation or treachery was found as the qualifying circumstance, the other not so treated was then considered as merely aggravating. In the two frustrated murders, the qualifying circumstance was that of evident premeditation, aggravated by nighttime, dwelling and recidivism.

From the judgment of conviction as above indicated, appeal was taken to this Court, appellant assigning errors against the trial court as follows:

"1. THAT THE TRIAL COURT ERRED IN DECLARING THAT CONDITIONS WERE FAVORABLE FOR RECOGNITION OF APPELLANT AS THE ASSAILANT OF THE VICTIMS IN THE INSTANT CASES;

"2. THAT THE TRIAL COURT ERRED IN ADMITTING THE ALLEGED ANTE-MORTEM STATEMENTS (EXHIBIT "H" and EXHIBIT "H-1") OF WITNESSES MERLIQUITA CABELTES AND CORAZON CABELTES AS PARTS OF THE RES GESTAE;

"3. THAT THE TRIAL COURT ERRED IN DECLARING THAT THE TESTIMONIES OF WITNESSES CORAZON CABELTES AND MERLIQUITA CABELTES, WERE MADE IN A POSITIVE, CATEGORICAL AND STRAIGHT-FORWARD MANNER;

"4. THAT THE TRIAL COURT ERRED IN DECLARING THAT THE OMISSIONS OR VARIATIONS IN THE TESTIMONIES OF WITNESSES CORAZON CABELTES AND MERLIQUITA CABELTES ARE IN-SUBSTANTIAL OR MINOR;

"5. THAT THE TRIAL COURT ERRED IN FAILING TO CONSIDER THE CIRCUMSTANCES OR CONDITIONS EXISTING, WHICH SHOW THE PROBABILITY THAT THE CRIMES COMMITTED IN THE INSTANT CASES MIGHT HAVE BEEN DONE BY THE COMPLAINANT WITNESSES AND OR EITHER OF THE DECEASED VICTIMS;

"6. THAT THE TRIAL COURT ERRED IN NOT DECLARING THAT THE PROSECUTION IN THE INSTANT CASES FAILED TO PROVE THE GUILT OF THE APPELLANT BEYOND REASONABLE DOUBT;

"7. THAT THE TRIAL COURT ERRED IN NOT ACQUITTING APPELLANT FROM THE CRIMES CHARGED." (p. 116, Rollo).

The "Statement of Facts", in Appellee's Brief is more extensive, complete and thorough than appellant's version which is limited to the bare fact of the two victims, Ignacio Cabeltes and his son Welson Cabeltes, having died, and the other two victims, Corazon Cabeltes, Ignacio's wife, and Merliquita Cabeltes, daughter of Ignacio and Corazon, missing death only by timely medical intervention, with appellant not disputing the facts as narrated in the People's Brief, except only as he denies being the malefactor, his defense being that of alibi. We have, therefore, merely to quote from Appellee's Brief for a recital of the facts attendant to the commission of the crime charged the following:

"At about 10:00 o'clock p. m. of February 13, 1973, the peace and quiet of the Cabeltes family was grossly and permanently shattered. As Ignacio Cabeltes and his wife, Corazon, and children Merliquita and Welson, slept in their residence in Sitio Boyogan, Barrio of Duca, Medina, Misamis Oriental, Pableo Cabeltes, Ignacio's son by his first marriage, unlawfully and clandestinely intruded into the Cabeltes residence. (pp. 73-79, tsn.).

"Inside his father's house, he commenced attacking the sleeping members of his father's second family. He stabbed Welson Cabeltes, his younger half-brother, then Corazon Cabeltes, his step-mother, and then, Merliquita Cabeltes, his youngest half-sister, all of whom were in a completely helpless state, as they were asleep when he surreptitiously entered their house. After his bloody attacks, Pableo gathered clothes inside the house and made a bonfire out of them, and seemingly dissatisfied with this, he went down and set fire to the wooden enclosure that surrounded the house. The father's house, in consequence, burned to the ground, causing the inexorable death of the critically injured Welson, and Ignacio, who being a cripple (since 1971), caused by appellant, p. 75, tsn.) could not get down to safety from the burning house. (pp. 73-79, tsn.)

"Corazon Cabeltes, although wounded, had managed to stumble out of their house and reach the house of Constancio Dahuya, a neighbor, who was awakened by Corazon's cry, "Constancio, please help because I was stabbed by Pableo Cabeltes." (p. 79, t.s.n., June 25, 1973) Merliquita Cabeltes, although wounded like her mother, was able to follow her mother to Dahuya's house. On arrival, she told Dahuya, "Nong, we were stabbed by Pableo Cabeltes." (pp. 33, t.s.n., June 25, 1973) And from Dahuya's house, the two saw their own house burn completely to the ground. (pp. 33 and 83, t.s.n., June 25, 1973)

"Before Pableo Cabeltes performed his acts above, he had confided to Timoteo Neri, a family friend, his fear that his half-brother Welson "will inherit the house." (pp. 128-129, t.s.n.) Pableo further confided to Neri that he had asked his father, Ignacio, to transfer to him the latte's house and lot, which he had proposed to his father to be used as collateral for a bank loan he wanted to secure, so that he could redeem his mortgaged land in Samay, Mananum, Medina, Oriental Misamis. And if his father would refuse, Pableo told Neri, he would "kill Welson and all the others living in that house, then burn the house so there will be no witness." (pp. 130, 131, t.s.n.)

"The appellant's oldest brother, Pedro, revealed that "Pableo Cabeltes had ill feelings (were) caused by several reasons: (1) Pableo could no longer inherit their father's house because of the birth of their half-brother Welson and half-sister Merliquita; (2) he and his father had re-fused Pableo's request to mortgage their father's house and lot as security for a loan that Pableo sought to get in order to redeem his own mortgaged land situated in Samay, Mananum, Medina; and (3) their father had "some money." (pp. 155-156, t.s.n.) Pedro also declared that "everytime Pableo Cabeltes asks money from my father and he was refused he would drive my father away from the house." (p. 158, t.s.n.)

"Ignacio and Welson Cabeltes' bodies were carbonized by the burning of their house. (p. 5, t.s.n. The examining doctor "could not identify anymore whether there were wounds," and as a consequence, the death certificates covering their deaths indicated the cause of death as "dehydration severe burn." (Exhs. "A" and "B", pp. 55-56, Rec., L-38246).

"Corazon Cabeltes had sustained the following wounds:

"FISCAL PELAEZ:

Q. What were those stab wounds? (Corazon Cabeltes was brought forward to the Doctor).

- A. 1. Stab wound on the right arm posterior aspect of the forearm, right,  
2. Another stab wound on the bicep on the anterior part of the forearm,  
3. Stab wound on the right axilla cutting the proximal part of the pectoralis major,  
4. Stab wound on the sternum, on the right side, just below the junction of the right clavicle and sernum,  
5. Stab wound on the 1 ft. arm thru and thru which is on the proximal third of the posterior arm,  
6. Lacerated wound on the left small finger.

Q. Are those the only injuries you treated?

A. Yes, sir.

Q. What kind of injuries are they?

A. They are stab wounds and lacerated wounds.

Q. What could have caused these wounds?

A. They could have been caused by a sharp weapon like a knife or dagger." (p. 11, t.s.n.)

Merliquita Cabeltes had suffered the following wounds:

"FISCAL PELAEZ:

Q. You also examined Miss Merliquita Cabeltes?

A. Yes, sir.

Q. Please inform this Court based on this medical certificate the injuries sustained by Merliquita Cabeltes?

A. When I examined her there was a big stab wound on the left side of the abdomen just above the left kidney area perforating the big intestine and the mysentery where the small intestines are attached, perforating the small intestine. It was thru and thru 3" apart - the two perforations (witness pointing to the incisions on the body of Merliquita Cabeltes) which has not healed properly. Another stab wound on right scapular region at the back (witness pointing to the scar).

COURT: (Explaining)

Q. Another perforated there?

Q. The weapon stopped when it hit the scapular bone.

COURT:

Proceed.

FISCAL PELAEZ:

Q. What had caused these three wounds?

A. Also a sharp weapon - maybe a knife or dagger." (p. 14, t.s.n.)

"The foregoing injuries would have caused death to the victims were it not for timely medical attendance. (pp. 12-15, t.s.n.)

"Pableo Cabeltes had a previous conviction, for homicide in Criminal Case No. 2963, entitled "People of the Philippines vs. Pableo Cabeltes," of the Misamis Oriental Court of First Instance. (Exh. "G")." (pp. 9-14, Brief for the Appellee, P. 137, Rollo).

Appellant's main assignments of error all converge on the one common object of trying to show the incredibility of the testimony of the state witnesses pointing to him as the killer of the two slain victims and the assailant of the other two near-death victims. Appellant would also inject the probability that the crimes charged have been committed by the complainants and the deceased victims among themselves, or against each other, unable to point to another suspect even as he comes forth with his defense of alibi, claiming, corrolarily, that he has not been sufficiently identified as the villain.

The question of appellant's identity as the perpetrator of the heinous crimes committed in one single occasion may, indeed, be said to be the principal and decisive issue as raised by appellant. For there can be no question as to the dastardly and heinous crimes having been committed, resulting in the death of father and son, the frustrated killing of mother and daughter, and the burning to the ground of the family dwelling. Only the author of these spine-tingling offenses remain to be determined.

The testimony of the two frustrated murder victims, Corazon Cabeltes and her 12-year old daughter Merliquita Cabeltes which points with unerring firmness to appellant as the culprit merits full faith and credence. Corazon is the stepmother and Merliquita is the half-sister of appellant. While these relatives of appellant live in a separate house with Ignacio Cabeltes, husband and father respectively of Corazon and Merliquita, and father also of appellant with the first wife of Ignacio, appellant's house is in a neighboring sitio of that where the victim's house was located, in the municipality of Medina, Misamis Oriental. The familiarity of the state witnesses and appellant with each other is thus beyond any doubt. Verily, close and intimate relationships should deter an uncertain, much less a false, identification of the appellant as the killer and attacker by his own half-sister and step-mother, knowing as they do that such identi-fication would surely send a close kin to the execution chamber.

The attack was with a knife or dagger. The victims who testified identifying appellant as the knife-wielder had thus a close face-to-face view of their assailant who made no effort to hide his identity, for he wore no mask or used any-thing else for a similar purpose. Appellant actually touched Merliquita, and even warned her "not to say anything," as he might have seen signs of terror on her face and therefore likely to shout in her fear and terror of appellant's ghastly deed. After the stabbing, appellant gathered clothes hanging inside the house and set them on fire, before going down the house. On reaching the ground, he also set fire on the wooden fence enclosing the lower portion of the house, thus razing the whole house completely to the ground. With all the moment it took appellant to perform all these heinous and devilish acts, enough time was afforded the state witnesses to know beyond mistake the identity of the seemingly crazed perpetrator, aided by the light of a kerosene lamp burning in the sala, as two other lamps were similarly lighted in the two bedrooms of the house.

The accuracy of the identification of appellant by the aforementioned witnesses is further shown by their horrified utter-ances when they saw Constancio Dahuya to whose house they forthwith fled for refuge first, by Corazon: "Help, I was stabbed by Pableo Cabeltes," followed by Merliquita: "Nong, we were stabbed by Pableo Cabeltes." These were the state-ments held as res gestae by the court a quo, not the extra-judicial statements (Exhibits H and H-1) given by the aforementioned witnesses which appellant tried, unnecessarily and for no useful purpose, to assail as not constituting res gestae utter-ances, because of the lapse of time since the startling occur-rence has taken place to the time the affidavits were taken down. That the words uttered to Constancio Dahuya are clearly part of the res gestae, the witnesses being then in a state of shock when they made the utterances, cannot be disputed.

Constancio Dahuya, an impartial witness, gave testimony attest-ing to the *res gestae* nature of the utterances quoted above. Appellant's object of attack as not constituting *res gestae* utterances are the abovementioned extra-judicial statements of the witnesses (Exhibits H and H-1). These statements were never held as part of the *res gestae* by the trial court. The empti-ness of appellant's argument in this regard is characteristic of the other arguments he had advanced to destroy the credibility of the star witnesses for the prosecution, based on what he claims to be inconsistencies, variance and contradictions in their testimony.

In raising the issue of credibility, appellant unavoid-ably comes to grip with the well-settled rule that the assess-ment of the trial court of the witnesses' credibility is generally and almost invariably given full weight and respect by the reviewing court which is not given the opportunity to observe the witnesses' manner of, and demeanor in, testifying on the stand. We find absolutely no cause in the present case to depart from this rule. The alleged inconsistencies are, as contended by the Solicitor General, on inconsequential details that do not discredit testimony, especially when the supposed inconsistencies consist of variance between said tes-timony and affidavits executed by the witnesses out of court (Exhibits H and H-1). For the incompleteness and lack of accuracy of affidavits are well-known. (People vs. Tiongson, 47 SCRA 279.)

In the instant case, appellant cites the supposed incon-sistency committed by Corazon Cabeltes for having testified that there were three (3) lighted lamps inside their house when the incident took place, but that in her affidavit taken during the preliminary investigation, she mentioned only one lamp. The observation as to the usual incompleteness and inaccuracy of affidavits clearly applies with utmost aptness in the instance just adverted to. It should equally apply when appellant cites as another case of inconsistency the testimony of Corazon that "when she was attacked by appellant, she imme-diatly ran away, yet by the number of wounds she suffered, it shows that she had really made a struggle against the assailant," (p. 10, Appellant's Brief). Clearly, no inconsistency of any moment or importance is perceived from the testimony of the state witnesses of such kind as to affect their credibility.

The same could be said with another instance of incon-sistency as pointed to by appellant when he stated: "This wit-ness (referring to Corazon Cabeltes) also testified that she quarrelled with her husband, Ignacio Cabeltes, because the appellant always asked money from the latter, yet she also declared that her husband never gave money to the appellant" (p. 11, Appellant's Brief). Again, the complete absence of any inconsistency is manifest, for appellant may have asked money, but it does not necessarily mean that because he asked, his father gave money.

With the other examples of what appellant claims to be inconsistencies in the testimony of the state witnesses, in his attempt to impugn their credibility, being of the same brand as those already adverted to, We need only state that the Solicitor General was quite correct in observing that "the alleged inconsistencies, however, do not discredit the testimonies alluded to, for they refer to inconsequential matters, but do not, in actuality, touch upon the basic aspects of the who, the how and the when, of the crimes committed" (p. 20, Appellee's Brief).

The suggestion of appellant of the probability that the crimes charged were committed by the deceased victims and the complaining witnesses among themselves or against each other is too absurd and preposterous to merit any serious consider-ation. Nevertheless, anent this point, We consider worthwhile quoting from Appellee's Brief (p. 21), the following:

"Appellant would paint a picture where the mother and her two children, one a 13-year old boy (Welson) and the other, a 12-year old daughter (Merliquita) were capa-ble of coldbloodedly murdering the victim, Ignacio, a crippled old man, their own husband and father, respectively. This hypothetical presentation, however, goes against the grain of experience. The defense was unable to extract anything that would support the kind of picture it now draws. The evidence, on the contrary, sup-ports the trial court's findings. The previous

conviction that the appellant had, for homicide, is but eloquent proof of his capability to commit the crimes charged. Consider this with his proven jealousy of his father's second family, and there can be no other conclusion but that the trial court made a correct assessment of the evidence."

The corroborative testimony of no less than appellant's full-blooded brother, Pedro Cabeltes, and other impartial witnesses, Timoteo Neri and Constancio Dahuya, fortifies the testimony of the eye-witnesses, Corazon and Merliquita Cabeltes, with respect to the identity of appellant as the perpetrator of the crimes charged. This makes his defense of alibi simply futile and of no avail (*People vs. Ompad, et. al.*, 26 SCRA 750; *People vs. Basuel*, 47 SCRA 207), as he must have so realized, for in this appeal, he no longer pressed this defense to gain his acquittal.

IN VIEW OF ALL THE FOREGOING, the Court is constrained to hold that appellant's guilt for the crimes charged has been proved beyond reasonable doubt, and, accordingly, to affirm in toto the penalty imposed by the court a quo as fully in accordance with law and the evidence. Costs against appellant.

**SO ORDERED.**

Teehankee, Barredo, Antonio, Concepcion, Jr., Santos, Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, Acting C.J. and Abad Santos, JJ., no part.

Makasiar and Aquino, JJ., in the result.

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